

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA)

Plaintiff,)

v.)

EDGAR VALDEZ-VILLAREAL (1))

Defendant.)

CRIMINAL ACTION FILE
NO. 1:09-CR-551-WSD-1

ATLANTA, GEORGIA

S E A L E D
Pages 3 through 24

UNITED STATES OF AMERICA)

Plaintiff,)

v.)

EDGAR VALDEZ)

Defendant.)

CRIMINAL ACTION FILE
NO. 1:16-CR-155-WSD

ATLANTA, GEORGIA

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE WILLIAM S. DUFFEY, JR.,
UNITED STATES DISTRICT JUDGE

SENTENCING

Monday, June 11, 2018

APPEARANCES OF COUNSEL:

For the Plaintiff:

OFFICE OF THE U.S. ATTORNEY
(By: Elizabeth M. Hathaway
Garrett L. Bradford
Michael John Brown)

For the Defendant:

MALLOY JENKINS PARKER
(By: Wilmer Parker, III
W. Bruce Maloy)

Adriana Arce-Flores

*Proceedings recorded by mechanical stenography
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(Transcript Pages 3 through 24 filed under seal.)

(BEGINNING OF SEALED PORTION)

Monday Morning Session

June 11, 2018

9:09 a.m.

PROCEEDINGS

(In chambers:)

THE COURT: Good morning, everybody.

This is an in-chambers conference in United States v. Edgar Valdez-Villareal, two cases, 09-551 and 16-155.

Ms. Hathaway and Mr. Bradford are here for the government. Mr. Parker, Mr. Maloy and -- Ms. Arce-Flores?

MS. ARCE-FLORES: Yes, Judge.

THE COURT: -- are here for the defendant.

And the question I guess has come up, because we had agreed previously that we would hold a sealed discussion on the government's motion for downward departure, but I understand now that there is some question about who can be in the sealed hearing, and specifically can [REDACTED] [REDACTED] be there since he's not of record and otherwise would not be permitted unless the parties consented.

1 But I understand that now that he is going to
2 testify as a witness in the hearing on the motion for
3 downward departure to which the government objects.

4 Is that a fair summary?

5 MR. PARKER: Objects to it being sealed because of
6 the testimony, that's my understanding.

7 MS. HATHAWAY: That's right.

8 THE COURT: And why is that?

9 MS. HATHAWAY: Your Honor, it seems different to me
10 having an in-chambers discussion about under-sealed filings
11 with the Court to make it sealed. Once there is testimony
12 being taken, it becomes more of a hearing that I think the
13 public then has a right to attend.

14 THE COURT: And what's your authority for that?

15 MS. HATHAWAY: Well, I think it's up to the defense
16 to make the showing that the hearing should be sealed. The
17 default is that hearings are open to the public.

18 THE COURT: But what would be the difference if we
19 had a hearing -- well, I understand that, and I'm a big
20 proponent of open hearings.

21 But everybody agrees that this is a sensitive
22 matter, his cooperation is sensitive and could subject him to
23 physical harm and threats to his personal security, and for
24 all those reasons I thought it made sense to have this as a
25 sealed hearing.

1 If somebody had come in and explained and stated in
2 a conference at which he didn't testify what he would say or
3 what additional information might be helpful in me ruling on
4 the motion, I suspect you wouldn't have any objection to
5 that.

6 But what would be the difference if it was
7 communicated to me indirectly as opposed to having him
8 testify? It seems to me the same concerns are present.

9 And maybe in a second we will get a summary of
10 what -- and his name is what?

11 MR. PARKER: [REDACTED]

12 THE COURT: I will get a proffer of what he's going
13 to say to see if that implicates the same concerns. Maybe we
14 should start with that.

15 MR. PARKER: Your Honor, the concerns are really
16 as much, if not more so, about the identification in a
17 public way of [REDACTED] participation as an
18 intermediary in '08, '09 and 2010 in facilitating the
19 communications between his brother, who was then in the
20 Beltran-Leyva cartel, passing information to [REDACTED]
21 [REDACTED] who then caused it to go to DEA or FBI or other
22 U.S. law enforcement officials as they did their
23 activities.

24 THE COURT: But, you know, I have seen all
25 that. I'm pretty aware of all that.

1 MR. PARKER: I know, but that was filed sealed.
2 That was filed under seal.

3 THE COURT: Right. So I guess why does he have to
4 testify about something that I am already aware of?

5 MR. PARKER: Well, I was simply trying to identify
6 preliminarily how it came about that he got involved at that
7 point. That's all -- I'm looking at no more than about
8 thirty minutes of testimony is my point.

9 THE COURT: I mean, why is -- see, to me it
10 seems most important that those communications occurred,
11 and I understand what the government's response was to all
12 of that. It doesn't matter really who did that.

13 I take it that they were done legitimately,
14 that the communication as to what he might be willing to
15 accept and whether he would surrender or not, I don't
16 think that that's an unusual sort of thing in a case like
17 this.

18 I'm just not sure what he adds.

19 MR. PARKER: Well --

20 THE COURT: And why would we want to run the risk
21 of identifying him, because all somebody has to do -- if we
22 are going to do that, I would have to have to tape closed the
23 windows in the back.

24 MR. PARKER: I understand the point you are making,
25 Your Honor.

1 What I need to try to do [REDACTED] is to
2 address the obvious legal issue that the Court and the
3 government presents, I understand, and to see if we can't try
4 to facilitate an open hearing, and have it all open and have
5 him testify, you know, on some matters and move on from there
6 whenever the Court might want to.

7 I mean, I am prepared to make various arguments
8 publicly, because it's publicly identified, whether it's
9 acknowledged by the government, that Edgar Valdez-Villareal,
10 as the Court knows from some of the submissions, was the
11 person who identified the location of Arturo Beltran-Leyva,
12 which resulted in his death.

13 It's been publicly identified since it was
14 in Washington in the courtroom up there that
15 Edgar Valdez-Villareal was going to be a witness against
16 Alfredo Beltran-Leyva. That's no secret. And those are
17 obviously points I'm going to be making in argument to the
18 Court and which would address the 5K issue.

19 I'm not suggesting that we make argument sealed on
20 the 5K issue. I was simply trying to think about the fine
21 point of the identification of [REDACTED] as it's his
22 participation in events that, quite frankly, the members of
23 the cartel who are still out and about might view as
24 justifiable for violent purposes as well.

25 THE COURT: I'm a little confused. So we have two

1 hearings this morning. One is this sealed hearing on the
2 downward departure issue, then we have the sentencing?

3 MR. PARKER: Well, I was going to suggest that we
4 not have a sealed hearing on the downward departure. We just
5 make everything open.

6 THE COURT: We can do that. That would make
7 sense. And then he can testify in the sentencing if you
8 wanted him to or not.

9 MR. PARKER: Right.

10 THE COURT: All right. Does that make sense to
11 everybody?

12 MS. HATHAWAY: Yes, sir.

13 THE COURT: So what I believe is going to happen,
14 to make sure it is what you believe is going to happen, is
15 that at some point after you talk to [REDACTED] you will
16 say we are ready, and we will have a single public hearing on
17 the sentencing?

18 MR. PARKER: Correct.

19 THE COURT: Okay. And we will take the departure
20 motion after I make guideline findings.

21 MR. PARKER: Right.

22 THE COURT: Okay.

23 MS. HATHAWAY: And just so I'm clear as well, we
24 are fine in open court then discussing pretty much everything
25 that is in the government's motion?

1 MR. PARKER: Except I would suggest -- I would
2 request -- I mean, you've made it very clear as to the
3 quality of his debriefing since his incarceration here.

4 MS. HATHAWAY: Uh-huh.

5 MR. PARKER: I wasn't going to bring out in public
6 what you know in private from the sealed motion about his
7 debriefings, you know, and possibly being a witness against
8 El Chapo, you know, Guzman --

9 MS. HATHAWAY: Sure.

10 MR. PARKER: -- and, you know, other investigations
11 that are ongoing that you identified and I will state,
12 you know.

13 So I mean, I wasn't -- the two things I'm obviously
14 addressing are the two Beltran-Leyva brothers --

15 MS. HATHAWAY: Okay.

16 MR. PARKER: -- as well as some other things that
17 are not in my view security -- sensitive to the security of
18 either the defendant or his family.

19 THE COURT: But the things that -- just so we are
20 clear, what are the things that you believe should not be
21 discussed, which I know about already because I read
22 everything, in open court that could raise security
23 concerns?

24 I guess one is Guzman.

25 MR. PARKER: Well, the actual things are this.

1 So this family, that's very --

2 THE COURT: You should take some notes on this.

3 MS. HATHAWAY: Yes.

4 MR. PARKER: -- open and above living in Laredo,
5 Texas, is obviously having to live with the fear of harm
6 being brought to them as a result of, you know, their son's,
7 their brother's, you know, conduct.

8 And to the extent that more is identified about [REDACTED]
9 [REDACTED] involvement in helping Edgar Valdez-Villareal
10 vis-a-vis trying to make a deal with the U.S. government
11 through whatever activities he did, whether in Mexico or
12 since, it exposes the family more to the threat. Okay?

13 THE COURT: Well, that makes sense to me.

14 MR. PARKER: So it's the family's concern.

15 I mean, I expect the federal government, I expect
16 the Bureau of Prisons to put this gentleman into a location
17 where he is protected. Okay?

18 THE COURT: Right.

19 MR. PARKER: That's one security issue, but that's
20 one that the government is going to be responsible for.

21 The other security issue deals with the family.
22 And as part of the 5K motion, in the 5K notes, the Court can
23 take into consideration threats not only to the defendant,
24 but threats to the family as well, as a basis for a 5K
25 departure.

1 Now, I wasn't going to go into details in front of
2 the family about why they should be in fear, because I don't
3 think we need to do that. And there are some members of the
4 family who, quite frankly, are children, and I don't think
5 they need to hear why they are in jeopardy of their
6 security.

7 And now that we are talking on the record in front
8 of the Court, you understand exactly that point, and you can
9 evaluate it and weigh it and assess it.

10 THE COURT: And I have done that before.
11 I understand.

12 MR. MALOY: And, Your Honor, just to be clear, I
13 don't believe that there is any activity by the family [REDACTED]
14 [REDACTED] acting as an intermediary.

15 THE COURT: That's what I was going to ask. So
16 there is no need to mention [REDACTED] specifically --

17 MS. HATHAWAY: No.

18 THE COURT: -- or any threats that could be
19 suffered by the family, because I'm aware of that already.

20 MS. HATHAWAY: Okay. And I would just talk about
21 then his willingness to testify in Alfredo Beltran-Leyva's
22 trial, and also generally that he's fully debriefed.

23 MR. PARKER: That's fine.

24 THE COURT: There is some potential for testimony
25 in yet immature cases where he might, in fact, cooperate in a

1 way that can give a Rule 35 motion.

2 MR. PARKER: Right.

3 THE COURT: Okay. So just to be clear, so the
4 two things we are not going to talk about that I'm already
5 aware of are, one, the family could be at risk, and so we
6 won't mention that, about the family's risk, because I know
7 that.

8 And, second, [REDACTED]
9 I know that, so we won't mention the fact that he played that
10 role.

11 And then, second, that with respect to cooperation
12 which he has and may in the future provide in other cases,
13 the government is not moving for a 5K on the basis of that
14 cooperation anyway, but reserves the right should they
15 believe that that's been helpful to file a Rule 35 motion
16 when that cooperation can be further evaluated, especially
17 the impact that it might have on other investigations and
18 cases.

19 So there is no need to mention that, and
20 specifically the Guzman case.

21 MR. MALOY: Your Honor, I don't know if it's
22 time --

23 MS. HATHAWAY: And -- I'm sorry, it's Guzman and
24 Beltran-Leyva.

25 THE COURT: I'm sorry.

1 MR. MALOY: I've never been in this situation
2 before, so I'm not sure that this is the appropriate time to
3 bring this up, but on a Rule 35, the judge considering the
4 Rule 35 is not going to be you. That's apparent.

5 THE COURT: Right.

6 MR. MALOY: That's clear. Is it appropriate to ask
7 you to make a statement that your sentence is not taking into
8 account his future cooperation?

9 Because I worry that a new judge coming to the case
10 would be unsure about whether or not you had given a sentence
11 that sort of gave him the benefit of the doubt and said,
12 well, I understand he's going to be cooperating in the
13 future, so I'm taking that into account too.

14 THE COURT: That's a good point. I think what
15 I can say is that I am determining this 5K 1.1 motion
16 solely on his cooperation to date that was set forth in
17 the government's motion for downward departure, and that
18 I am not considering any cooperation that he might have
19 given or might in the future give with respect to ongoing
20 or future investigations or providing assistance testimony
21 or other assistance in actual investigations and
22 prosecutions. And so I'm just limiting it to what has
23 happened to date.

24 So you will have a record of that.

25 MR. MALOY: Thank you, Your Honor.

1 MR. PARKER: There are two clarifications, just so
2 we don't make -- so I don't make a mistake.

3 THE COURT: Well, I'm in favor of you not making a
4 mistake.

5 MR. PARKER: You know, I don't really intend to
6 make mistakes, but sometimes they happen.

7 THE COURT: They do. I have had that experience
8 myself.

9 MR. PARKER: It's a condition of humanity.

10 So one of the things that happened back in '09 was
11 the disclosure by the defendant -- it's identified in the
12 communications that you saw, Your Honor of DEA agents in
13 country -- in the country, and it was -- I expect that

15 getting information from a Mexican intelligence official and
16 that -- or that Edgar Valdez became aware of that because a
17 Mexican intelligence official -- or Mexican officials I
18 should say, corrupt officials, released that information to
19 the cartels: Photographs, names. Real names, not their
20 undercover names.

21 And that was something that was transmitted
22 who then transmitted it to the government. It wasn't
23 something used as a negotiating tool. It was done for all
24 the right reasons, I would argue and will argue, to save
25 lives and to disclose.

1 That's one thing.

2 THE COURT: Okay.

3 MR. PARKER: And I can do it just like I just did,
4 if we can do it despite -- if the Court will -- if you will
5 accept that as a proffer, that's the proffer of what his
6 testimony would be.

7 MS. HATHAWAY: Okay.

8 MR. PARKER: And I don't need any more than that,
9 than the ability to refer to it in my argument.

10 THE COURT: So you accept that, and I can consider
11 that in connection with my ruling on the 5K 1.1 motion?

12 MS. HATHAWAY: Yes, Your Honor. I'm not aware of
13 that so I would want to talk to my agent, but I accept the
14 proffer [REDACTED] would testify to what Mr. Parker just
15 said.

16 THE COURT: Okay. That's enough then.

17 MR. PARKER: Then the other matter -- because it
18 was raised in your 5K motion and I think it needs to be
19 addressed -- is to the extent we want to argue and say that
20 there is something good about this defendant, why didn't he
21 just come in and surrender, why didn't -- as one of those
22 e-mails say, you need to surrender, we will take the death
23 penalty off the table and you need to surrender and you need
24 to be custody and we can work out a deal, you know, this back
25 and forth, you are never getting anywhere and you just need

1 to surrender.

2 And the testimony of [REDACTED] I will represent
3 would be that he [REDACTED] had a conversation on that
4 fact, and that [REDACTED] had a
5 conversation, and they feared that if [REDACTED] Edgar did
6 come across the line and surrender within the months or at
7 the point in time, which is after this horrendous assault and
8 murder -- well, it wasn't a murder, you know, the Marines
9 killing Arturo -- that they believed, whether it's right or
10 wrong, it's just they believed that there would be a group of
11 sicarios sent to kill the family.

12 Passions were hot, they were heated, and this is
13 all in the time frame of after the murder, which is in '09,
14 beginning of '10, and we've got those months, and of course
15 he gets arrested later in '10. But that's the explanation,
16 that's the proffer I am making.

17 THE COURT: So ultimately all you are saying is
18 that's what [REDACTED] would testify about.

19 You probably don't -- you wouldn't have anything
20 to contest that?

21 MS. HATHAWAY: That's right.

22 THE COURT: Because it was a private
23 conversation with the family members. Would you accept
24 that proffer?

25 MS. HATHAWAY: I will, Your Honor.

1 THE COURT: All right. Okay.

2 MS. HATHAWAY: And -- I'm sorry.

3 MR. PARKER: And I really think that might obviate
4 the need [REDACTED] to testify at all. I would like to confirm
5 that, but -- you know, so we might obviate that need at
6 all.

7 Now, the other matter, since it's on the table, is
8 the conditions of the incarceration of Edgar Valdez by the
9 Mexican authorities.

10 I haven't had the conversation with Edgar Valdez
11 about his testimony because I just haven't, but we would try
12 to have that before we start the hearing. But that's
13 something that I think we need to put on the record somehow,
14 how he was incarcerated for those five years.

15 THE COURT: Could he do that in his allocution?

MR. PARKER: He can, if you will consider that as
17 part of a basis for your 5K ruling.

18 THE COURT: I don't prejudge anything. Whatever
19 you want to present to me I will consider in your argument on
20 it.

21 But I don't know what he's going to say, so
22 I can't -- people have -- all I can say is people have done
23 that in the past, but it's usually about the federal
24 penitentiary here in Atlanta.

25 MR. PARKER: Well, I know, and I think the federal

1 penitentiary here in Atlanta as compared to the Altiplano
2 Penitentiary in Mexico, it's sort of a garden place to be
3 here in Atlanta.

4 THE COURT: Although we did have -- we did have one
5 defendant that was arrested I think in Thailand, and there
6 was some testimony about what his conditions were and would
7 I take that into consideration. And, frankly, I don't have a
8 specific enough recollection to know how -- whether I did
9 and, if so, to what extent.

10 So it's not something I haven't heard before, and
11 I wouldn't prohibit it.

12 MR. PARKER: Well, I understand. I mean, I don't
13 really care to put him on the stand. I'm just saying that's
14 the only issue I need to deal with, and since he's the one
15 who was there, not us --

16 THE COURT: My understanding was that -- so I guess
17 what you are saying, because I think the government has
18 expressed a willingness to give him credit for his
19 incarceration by the Mexican authorities through the time of
20 today, that that would be deemed all pretrial detention even
21 though it was by foreign authorities.

22 MS. HATHAWAY: That's correct.

23 THE COURT: I guess what you are saying is that in
24 addition to that, you would like to argue for a greater
25 downward departure?

1 MR. PARKER: Well, I would like you to weigh it as
2 an additional factor in considering your -- the downward
3 departure. If you are not willing to do that, you are not
4 willing to do that.

5 THE COURT: Well, I never say I'm not willing to do
6 something when I don't know what I am supposed to be willing
7 to do.

8 MR. PARKER: Well, I think to put it
9 straightforward, I mean, it's been related to me [REDACTED]
10 [REDACTED] and I've heard it different times in
11 communications from the defendant, that he was essentially
12 held in what we would describe as confinement in a small
13 cell, that he was beaten periodically, that he was given poor
14 food.

15 Keep in mind, the point is that he had great
16 knowledge of corruption on government officials in Mexico,
17 and on the one hand he was a public incarceration and they
18 couldn't just off him, if you will -- that's my argument
19 about the attention being directed to their corruption -- and
20 on the other hand, you know, they didn't care to really treat
21 him with kid gloves either.

22 So that's how it happened, and that's the point I'm
23 trying to make.

24 THE COURT: I think if you want to make that point,
there has to be some record for that, and that record it

1 seems to me is only available from --

2 MR. PARKER: The defendant.

3 THE COURT: -- the defendant.

4 I'm not going say whether that would influence me
5 or not influence me, but if you want to make that, there has
6 got to be some factual predicate for it.

7 MR. MALOY: Your Honor, I have been prepared to
8 argue the 18 U.S. Code 3585 issue about credit for the time
9 in Mexico, and I'm not certain -- and I have actually looked
10 at some case law, and the cases are all over the place on
11 this particular issue.

12 Credit, by statute, lies with the Bureau of Prisons
13 to award that credit. And I'm not sure if the government is
14 saying that they have no objection to the BOP in the future
15 awarding credit for that time served, or if the Court should
16 give credit as part of its sentence.

17 And if the Court is inclined to do the latter, then
18 I believe that the only way that it really becomes effective
19 is if the Court says I was planning to impose a sentence of
20 X, and I am deducting from the sentence of X time Y equal to
21 the amount of time served in Mexico, and therefore the
22 sentence is Z.

23 If you just say, you know, and I'm giving you
24 credit for time served as part of your J&C, I don't think
25 that really affects the Bureau of Prisons. They start from

1 scratch and make an investigation about whether or not he
2 was being held on any Mexican charges and so forth. It's
3 messy.

4 MR. PARKER: And he was being held initially on
5 Mexican charges.

6 MR. MALOY: But never convicted in Mexico.

7 MR. PARKER: No.

8 THE COURT: Because they didn't have to do anything
9 if he was going to be extradited here.

10 MR. PARKER: Right.

11 THE COURT: Well, there are couple of ways I have
12 handled this issue in the past.

13 One is to deem that the sentence begins to run from
14 a date before the actual sentencing. I have been told the
15 BOP doesn't like that, but if they are ordered to do that,
16 they do.

17 The other way would be for me -- if you make that
18 argument, for me to say, well, I would have given him X, in
19 my mind I'm going to give credit for that, and I don't put
20 anything on the record.

21 If I was the defendant, I would say that would
22 be fine because I have got another shot at BOP because
23 maybe they would think he didn't get credit for it,
24 but --

25 MR. MALOY: People have tried that, and that's

1 where the case law comes out pretty clearly that the BOP --
2 I hate to say the BOP will absolutely positively do anything,
3 but from the litigation, if the Court says I am taking into
4 account your time served in a foreign jurisdiction pending
5 extradition, the BOP clearly says, okay, you got credit,
6 that's it.

7 THE COURT: Okay. I can do that. I mean, since
8 you agree to that anyway --

9 MS. HATHAWAY: That's right.

10 THE COURT: -- I can make the record show that I am
11 doing that.

12 And that's 61 months, if I recall?

13 MS. HATHAWAY: That's correct, Your Honor.

14 THE COURT: Total BOP and federal detention;
15 right?

16 MS. HATHAWAY: Sixty-one months in Mexico.

17 THE COURT: Okay.

18 MR. PARKER: He's been in BOP custody since --

19 MR. MALOY: October.

20 MR. PARKER: -- September the 30th of 2015.

21 THE COURT: So it's only the 61 months in foreign
22 custody?

23 MS. HATHAWAY: That's right.

MR. PARKER: Correct.

25 THE COURT: All right. I will do that.

1 MS. HATHAWAY: And, Your Honor, I just wanted to
2 clarify one thing so that I don't make a mistake or get into
3 trouble with the Court. In terms of the information --

4 THE COURT: You couldn't get into trouble with me,
5 nor could Mr. Parker.

6 MS. HATHAWAY: You are too kind.

7 In terms of the information regarding
8 Arturo Beltran-Leyva, that information came through an
9 intermediary who is not a blood relative of Mr. Edgar Valdez.
10 So I don't want to cause any concerns if I say it comes from
11 an intermediary, and maybe I will say a nonrelative.

12 [REDACTED]
13 [REDACTED]
14 MR. PARKER: Right.

15 THE COURT: Okay. I don't think anybody has a
16 disagreement about that.

17 MS. HATHAWAY: Okay.

18 THE COURT: While we are all here, there is I guess
19 one guideline objection, whether he's a category one or
20 category two. I don't think it really makes any difference,
21 does it?

22 MR. PARKER: Not given the posture of the case.

23 THE COURT: Right.

24 MS. HATHAWAY: We agree, Your Honor.

25 MR. PARKER: But we would rather have it identified

1 as one than two.

2 THE COURT: Does that have an impact on his
3 security classification?

4 MS. ARCE-FLORES: I believe it would, Judge.

5 THE COURT: Although in a case like this --

6 MS. ARCE-FLORES: But I think the way they identify
7 it for purposes of classification, that they give you a point
8 or you get points as per criminal history category.

9 THE COURT: Right. Okay.

10 MS. ARCE-FLORES: Again, I don't know that it would
11 matter in his case.

12 THE COURT: I understand the issue. Okay.

13 Anything else?

14 MR. PARKER: I just would like to have about five
15 minutes [REDACTED] so I can talk with him.

16 THE COURT: Yeah, why don't you take ten or
17 fifteen. Just let us know when you are ready.

18 MR. PARKER: Thank you, Your Honor.

19 MS. HATHAWAY: Thank you.

20 THE COURT: And this is sealed.

21 (A recess is taken at 9:37 a.m.)

22 -- -- --

23 (END OF SEALED PORTION

24 -- -- --

25

Monday Morning Session

June 11, 2018

10:02 a.m.

-- -- --

(Interpreter Ian McColl is present and standing by.)

(In open court:)

THE COURT: Good morning. This is the sentencing in the United States v. Edgar Valdez-Villareal in two cases, one is 09-CR-551 and the other is 16-CR-155.

Would counsel announce their appearances, please?

MS. HATHAWAY: Yes. Good morning, Your Honor. Elizabeth Hathaway, Garrett Bradford, and Mike Brown on behalf of the United States, and standing with us at counsel table is DEA Special Agent Tom Jackson.

THE COURT: Good morning.

MR. PARKER: Good morning, Your Honor. Wilmer Parker with Bruce Maloy and Adriana Arce-Flores on behalf of the defendant, Edgar Valdez-Villareal.

THE COURT: And good morning, Mr. Villareal.

DEFENDANT VALDEZ-VILLAREAL: Good morning, Your Honor.

THE COURT: Mr. Villareal, there was prepared in your case this long document that's called a presentence investigative report that has a lot of information about the

1 facts of the case and the processing of the case, information
2 about the guidelines and some personal information about
3 you.

4 I just want to make sure, first of all, that you
5 have received that document. Have you?

6 DEFENDANT VALDEZ-VILLAREAL: Your Honor, yes,
7 I just read it. I have it, but I read a little bit of it.

8 THE COURT: All right. So you have received it and
9 you have had a chance to review it?

10 DEFENDANT VALDEZ-VILLAREAL: Yes, Your Honor.

11 THE COURT: All right.

12 MR. PARKER: We took it to him, Your Honor, and he
13 did in that sense receive it and he reviewed it in our
14 presence. But we brought it back with us from USP-Atlanta.

15 THE COURT: I understand.

16 And when you reviewed it with your lawyers, did you
17 have some discussion about the contents?

18 DEFENDANT VALDEZ-VILLAREAL: Yes, Your Honor.

19 THE COURT: I didn't see in the presentence report
20 any objections to the facts that were set out in the
21 presentence report. There were some clarifications which
22 I intend to consider, unless there is any objection from the
23 defendant.

24 And I want to make sure that there aren't any
25 objections to the presentence report. Are there any

1 objections from the government?

2 MS. HATHAWAY: Your Honor, the government did
3 object to the criminal history category.

4 THE COURT: But that's not a fact. That's a
5 guideline objection.

6 MS. HATHAWAY: Oh, the facts. No, Your Honor,
7 there are no objections to the facts.

8 THE COURT: And does the --

9 MR. PARKER: We have no objections, Your Honor.

10 THE COURT: And do you have any objection to the
11 few clarifications that the government made with respect to
12 the facts?

13 MR. PARKER: No, Your Honor. They were reviewed
14 with us, and we had no objections to the redactions that the
15 government proposed.

16 THE COURT: Then I am going to accept the facts set
17 forth in the presentence report and will use those in
18 determining a reasonable sentence, as well as anything else
19 that is presented during the course of the hearing.

20 We will now move to the guidelines in the
21 presentence report.

22 If at some point we are going to use the
23 interpreter, I will have to swear him in, but my
24 recollection, Mr. Villareal, is that your English is very
25 good. Are you comfortable moving forward in English?

1 DEFENDANT VALDEZ-VILLAREAL: For now, yes,
2 Your Honor.

3 THE COURT: All right. If at any time you want
4 to use the interpreter, let me know and I will have him
5 sworn.

6 DEFENDANT VALDEZ-VILLAREAL: Yes, Your Honor.

7 THE COURT: So the guideline recommendations in the
8 presentence report with respect to the offense level is that
9 the combined adjusted offense level is -- the total offense
10 level is 51.

11 Is there any objection to the total offense level
12 recommendation of 51?

13 MS. HATHAWAY: No, Your Honor.

14 MR. PARKER: No, Your Honor.

15 THE COURT: Then I will find that the total offense
16 level is 51.

17 The criminal history category recommended in the
18 report is one. The government's position is that it should
19 be two. In order for it to be two, the government would
20 have to make a showing that it is criminal history category
21 two.

22 So let's begin with whatever the government wants
23 to say on the criminal history category.

24 MS. HATHAWAY: Yes, Your Honor.

25 Your Honor, in Paragraph 227, the PSR lists a prior

1 conviction of Mr. Valdez for possession of marijuana. He
2 pled guilty, received a seven-year sentence that was
3 suspended, and placed on probation for five years. That
4 probation was terminated in March of 2001.

5 Relying on information in the PSR, at Paragraph 21
6 the PSR notes that in 2000, which would be during the period
7 of Mr. Valdez's probation, that he began trafficking in
8 marijuana and soon developed cocaine customers in
9 New Orleans, Louisiana, Memphis, Tennessee.

10 And that starting -- excuse me, at Paragraph 22,
11 that starting in approximately 2001, that Mr. Valdez made
12 connections with cocaine distributors in Memphis and
13 Mississippi, and began sending them shipments of 20 kilos of
14 cocaine every three to four weeks.

15 And then at Paragraph 39 there is information from
16 a confidential source who indicated he had met Mr. Valdez in
17 August of 2001, and at the time Mr. Valdez indicated that he
18 had 80 kilograms of cocaine where they were, and that he was
19 expecting a shipment of 250 kilos of cocaine.

20 Now, to be clear to the Court, that August of 2001
21 is going to be after probation, but I would submit to the
22 Court given the information --

23 THE COURT: Well, what specific information do you
24 have this began before March of 2001, the date that his
25 probation was discharged?

1 MS. HATHAWAY: So what I'm relying on,
2 Your Honor, is in Paragraph 21 where the PSR says that
3 soon after early 2000 is what it says, in early 2000,
4 Mr. Valdez began distributing in marijuana, and then soon
5 thereafter began distributing in cocaine, and that by 2001,
6 at least by August, he's already up to 80 kilograms of
7 cocaine.

8 And I would submit to the Court that one doesn't
9 get to that level of cocaine if they had started after
10 March.

11 I don't have the exact time frame. We just have in
12 the PSR that it was soon after 2000 that he started
13 trafficking in cocaine, but we know that by August he already
14 has 80 and is expecting a shipment of 250.

15 And I would submit to the Court then that those
16 facts indicate that his cocaine trafficking began sometime
17 before March of 2001, and therefore he would get criminal
18 history points for being on probation which would place him
19 in a category two.

20 THE COURT: I give a lot of credence to the
21 evaluation that's done by the probation officer in this
22 case.

23 I understand your argument is that circumstantially
24 that there ought to be an inference that it occurred before
25 March 10th of 2001. But for me that's not enough to make a

1 hardline determination that it actually did begin before the
2 discharge.

3 And so I'm going to overrule your objection to the
4 criminal history category number one with the following
5 observation. That even if I was wrong on this, that it
6 wouldn't impact what the Sentencing Guidelines recommend, and
7 therefore there is sufficient -- there is a sufficient
8 recommendation to give me the authority and discretion that
9 I need to impose a reasonable sentence.

10 So I am going to overrule the objection.

11 MS. HATHAWAY: Yes, Your Honor.

12 THE COURT: So with that finding and ruling on the
13 objection, I find that the defendant's criminal history
14 category is one, and that the custody guideline range is
15 life, and that his fine guideline range is \$25,000 to
16 \$40,500,000.

17 Are there any objections to those findings?

18 MS. HATHAWAY: No, Your Honor.

19 MR. PARKER: No, Your Honor.

20 THE COURT: Then the government has moved for me to
21 consider a reduction under 5K 1.1, and that motion, it's
22 probably time to hear that.

23 So let's begin with the government's presentation
24 on their 5K motion.

25 MS. HATHAWAY: Yes, Your Honor.

1 The government has moved for a departure under
2 5K 1.1, and is asking the Court for a nine-level departure,
3 which would take Mr. Valdez from an offense level 51 down to
4 a 42.

5 It's basically that guideline that would allow
6 the Court to sentence Mr. Valdez to a term of years as
7 opposed to lifetime. Obviously the guidelines are advisory,
8 but it would move the advisory guidelines to 360 to life
9 instead of being an advisory guideline of life.

10 And, Your Honor, the government has set forth in
11 its 5K motion the basis for this recommendation that the
12 Court grant a 5K departure. I did want to highlight for the
13 Court what has happened since Mr. Valdez has been returned to
14 the United States.

15 Mr. Valdez got to the United States on September
16 30th, 2015. He arrived in Atlanta in early October. Almost
17 immediately Mr. Valdez expressed an interest in pleading
18 guilty and talking to the government.

19 The government was reluctant at first, but
20 ultimately decided it would listen to what Mr. Valdez had to
21 say. And within three months approximately of his arrival in
22 the United States, Mr. Valdez entered a guilty plea, and then
23 debriefed with the government.

24 He debriefed for about two days, giving information
25 about his various criminal activities, potential for

1 cooperation. A lot of the information he had at that point
2 was stale, but we did believe that it was truthful.

3 One of the things he talked about as well was
4 information he had about Alfredo Beltran-Leyva.

5 Mr. Alfredo Beltran-Leyva was a defendant in a
6 case being handled out of the District of Columbia.

7 Mr. Valdez debriefed regarding Alfredo Beltran-Leyva and
8 was willing to cooperate.

9 He was transferred up to the D.C. area.
10 About a month before trial his name was disclosed in
11 open court as someone who was willing to testify in that
12 trial.

13 Ultimately Alfredo Beltran-Leyva pled guilty.
14 However, again, Mr. Valdez's name and summary of his
15 testimony was given to the court, and my understanding is
16 that some of his information was used at sentencing.

17 So I wanted to highlight that for the Court.
18 I think that does qualify as substantial assistance.

19 There is also, as we mentioned, a potential that
20 he may be able to assist in future right now immature
21 cases. We are not asking the Court to consider that at this
22 time. We did put it in our memo, but I'm not asking the
23 Court to consider that right now, but I am asking the Court
24 that we reserve the right to file a Rule 35 should that
25 cooperation come to fruition.

1 THE COURT: Mr. Parker?

2 MR. PARKER: Your Honor, in addition to the
3 information that government counsel has provided, I would
4 like to discuss additional facts.

5 As the Court is aware, as early as May of 2004, the
6 defendant, Edgar Valdez-Villareal, through counsel,
7 communicated with Department of Justice officials in the
8 Southern District of Texas in the Eastern District of
9 Louisiana. Of course, the Eastern District of Louisiana case
10 was Ruled 20 here before this Court.

11 In this communication, the Department of Justice
12 specifically in connection with potential resolution of
13 outstanding charges at that time, which I note do predate the
14 Atlanta indictment, solicited the assistance of defendant,
15 Edgar Valdez, to effectuate the capture, arrest, and
16 detention of Joaquin Chapo Guzman Loera, also known as
17 Shorty, and Arturo Beltran-Leyva by Mexican and/or U.S. law
18 enforcement authorities.

19 Subsequent to that solicitation and some years
20 later, Mr. Valdez, the defendant, who was in Mexico, having
21 left his home area of Laredo, Texas, sometime in 2000, and
22 who had become affiliated with first the Sinaloa cartel
23 headed by Joaquin Chapo Guzman, and later the Beltran-Leyva
24 cartel which split off from the Sinaloa cartel, engaged in
25 unquestionable high-level criminality that is evidenced by

1 not only the indictment in this case, but by the facts
2 reflected in the PSR.

3 Because of that activity, he actually had the
4 possible ability of effectuating the capture and arrest of
5 those two individuals I previously identified, Chapo Guzman
6 and/or Arturo Beltran-Leyva.

7 But the evidence reflects that the Beltran-Leyva
8 cartel appears to have developed at the end -- or the
9 beginning, I should say, of 2008 as a result of a
10 disagreement between Alfredo Beltran-Leyva -- excuse me, as a
11 disagreement between Arturo Beltran-Leyva and his brothers
12 over the capture of Alfredo Beltran-Leyva, the individual
13 that Ms. Hathaway just identified as being subject to the
14 prosecution in Washington, D.C., that Mr. Edgar Valdez was to
15 be a witness against.

16 He had been arrested by Mexican authorities, and of
17 course ultimately he was extradited here, but it took some
18 time. But because of that time frame there became this
19 division.

20 The evidence presented before the Court is that in
21 2008 and into 2009 and into 2010, Edgar Valdez-Villareal
22 communicated via third parties with U.S. law enforcement
23 authorities, and those authorities, based on the documents
24 submitted to the Court, include the Drug Enforcement
25 Administration out of San Antonio, the Drug Enforcement

1 Administration out of Mexico City, the FBI office in McAllen,
2 Texas, the FBI office in the Embassy at Mexico City,
3 Immigration Customs and Enforcement agents in the southwest
4 border area, as well as possibly communications with
5 intelligence services of the United States.

6 And through these communications various activities
7 occurred that have been documented to the Court. I refer to
8 those in addition, some of which are referenced by the
9 government in its 5K motion.

10 THE COURT: But just stopping for second, during
11 the period of time of those communications, wasn't the
12 defendant actively engaged in transporting and arranging for
13 transportation and distribution in the United States --

14 MR. PARKER: Yes.

15 THE COURT: -- in Atlanta, Memphis and Mississippi
16 massive amounts of cocaine?

17 So on the one hand he's trying to have these
18 communications. On the other hand, he is in some cases
19 arranging for him and for others tons of controlled
20 substances to be imported into the United States while he's
21 having these side discussions that might benefit him.

22 MR. PARKER: That's correct. But they also not
23 only benefit him, but they also benefit the government of the
24 United States and law enforcement, not only in law
25 enforcement, but in national security.

1 Because we need to deal, quite frankly, with the
2 absolute recognition of what the Mexican cartels pose to
3 national security to the United States of America. It's not
4 just a law enforcement matter. It is a national security
5 matter.

6 THE COURT: Of which the defendant presents exactly
7 the same risk --

8 MR. PARKER: Correct.

9 THE COURT: -- and continued to present it while he
10 was trying to get some concessions from the government.

11 MR. PARKER: Correct. That's absolutely correct.

12 And in making those contacts with the government,
13 the United States government, and engaging in the activities
14 he engaged in with the United States government, he was each
15 and every time putting his life in jeopardy.

16 And you can say on the other hand his life was
17 always in jeopardy.

18 THE COURT: Because it was.

19 MR. PARKER: Because it was. But it's in jeopardy
20 from different reasons as well.

21 THE COURT: It's all choices that people make in
22 life.

23 MR. PARKER: I got it. But the facts are what they
24 are. And the facts are that he was integral in assisting
25 U.S. law enforcement that later communicated with Mexican

1 authorities, keeping in mind the massive amounts of
2 corruption in Mexico.

3 Indeed a *Los Angeles Times* article in 2011
4 identified the Beltran-Leyva cartel as having thoroughly
5 infiltrated and corrupting the Attorney General's Office
6 of Mexico, paying up to \$450,000 a month to the then
7 Attorney General of Mexico back in the '08, '09, '10 time
8 frame.

9 The problem is that any effort by this man in
10 helping the United States that's disclosed to Mexican law
11 enforcement officers who are corrupt is his effort of signing
12 his own death warrant.

13 There could be no effort in keeping that
14 information from the Beltran-Leyva brothers or from Guzman
15 and the Sinaloa cartel or any other cartel, be it the Zetas,
16 the Gulf cartel, whomever, because the greatest problem in
17 the country of Mexico is the lack of integrity in any of its
18 government functions, including its judiciary.

19 So getting back -- and the Court is well aware, and
20 you are absolutely correct, but in that regard, in addition
21 to the activities that have been detailed, one of the
22 significant activities was the disclosure of the existence
23 through information received by this defendant that the
24 cartels had identified undercover DEA agents in various
25 localities within the country of Mexico: Photographs, names,

1 identifications.

2 That information was submitted, caused to be
3 submitted by this defendant through intermediaries to
4 U.S. law enforcement so that those individuals could be
5 protected and removed from harm's way. And in doing that,
6 that also was risky.

7 Everything was risky, I understand that, and that's
8 the point I'm trying to make to the Court.

9 Now, the Court has raised a very central issue
10 here, and the government rightfully raised in their motion,
11 5K motion: Well, why didn't defendant just walk across the
12 border and surrender? Why didn't he just give up, surrender
13 into custody, try to go through the normal process that one
14 would to negotiate a resolution of his criminal problems,
15 which included by then the Atlanta case that this Court has
16 sat on throughout the years?

17 And the answer I represent to you is because,
18 as we know from the publicity and from the events,
19 Arturo Beltran-Leyva was killed in fire fights with
20 Mexican Marines as a result of information that had been
21 delivered by this defendant to U.S. law enforcement
22 authorities.

23 Had the defendant -- and I have represented to
24 the Court as a proffer, had the defendant -- it was
25 discussed by the defendant with his family about

1 surrendering, but it was believed by them that had he done
2 so, he would put himself not only in jeopardy of being
3 killed, but his whole entire family. Not just his immediate
4 family -- mother, father, brother, sisters -- but the
5 extended family as well, many of whom are are present in this
6 courtroom today. And that is the reason that did not
7 happen.

8 Now, that discussion happened in the early part of
9 2010. It does reflect -- it is reflected in the record that
10 this defendant was arrested in 2010 by Mexican authorities
11 and incarcerated, incarcerated in Mexico, and it had been
12 publicized that he was an individual who had knowledge of,
13 and I represent to the Court has discussed the knowledge with
14 the government of corruption with high-level government
15 officials of Mexico.

16 Now, there was a request by the defendant through
17 his counsel to facilitate his extradition to this Court to
18 face these charges, representing an indication he wanted to
19 cooperate.

20 In fact, previous United States Attorney John Horn,
21 who then was an Assistant U.S. Attorney, did travel down to
22 Mexico City and engage in conversations and communications
23 with not only the defendant and his counsel, but also with
24 Mexican officials. And the Court has been presented with
25 documentation of some of that communication, and the Court

1 has been presented with documentation of communication with
2 the then Mexican Attorney General.

3 Also the Court has been presented with
4 communication from the U.S. Embassy in Mexico that Mexico
5 controlled when or if the defendant would be extradited back
6 to the United States. He was not extradited for 61 months,
7 during which time he was held in prison in Altiplano, Mexico,
8 and at least in some communication was held in very onerous
9 conditions.

10 By the time he was extradited, his historic
11 knowledge of events and activities was, in fact, as the
12 government has said, stale, but it wasn't because he didn't
13 try to get extradited sooner than later.

14 The conduct and activities reflected in the PSR,
15 the conduct that the Court has rightfully identified, is
16 conduct endemic to the activities of the Mexican drug
17 cartels, which really is a Mexican drug war infused with all
18 kinds of issues over and above the simple desire to make
19 millions and millions of U.S. dollars.

20 The violence -- and the violence occasioned in
21 Mexico was a war, not unlike wars in any locales in our
22 world. It's a war over drugs. It's not a war, as coined by
23 President Nixon, on drugs. It's a war over drugs. And
24 that's why that poses such a national security threat to our
25 country.

1 While the government's recommendation as to a
2 sentence less than life is certainly appreciated, its
3 recommendation of almost 50-something years to a
4 44-year-old man is the functional equivalent of life, and
5 we would represent, Your Honor, is not an appropriate
6 position.

7 It should be something of a more substantial
8 nature, more substantial because of not only the conduct
9 that I have previously described, the conduct that the
10 government has referenced, but it must be of more
11 substantial nature to show others that there is a reason
12 to put one's life in -- to try to make some mitigation of
13 one's own conduct. That's why 5K motions are designed in
14 the guidelines.

15 I go back to the DEA agents, Your Honor, the DEA
16 agents who were identified, who were not part of the
17 negotiation or leverage or anything, and disclosed, and the
18 families of those DEA agents. Had they been killed, any one
19 of them, the horrific nature of the murders of those DEA
20 agents would -- yes, it would be part of the line of duty,
21 and they certainly signed up for some of that. But my point
22 is that there is not just an evil man sitting in this
23 courtroom. There is more than that.

24 He is not the evil -- as evil men were in
25 Arturo Beltran-Leyva or in his brother Alfredo Beltran-Leyva

1 or El Chapo Guzman. No, he's a man who found himself in a
2 situation that he couldn't control, and he wanted to get out,
3 but he couldn't get out without causing great risk, indeed
4 possibly death, to the members of his family.

5 THE COURT: Well, Mr. Parker, let's keep
6 perspective here.

7 Let's just focus on the DEA agents. The DEA
8 agents ultimately, well, have always been at risk, because
9 the work that they do -- and people have written books
10 about the work that they do -- is inherently risky when you
11 have to go into a foreign country to try to stop evil.
12 And the fact is that they were put at risk because of the
13 defendant.

14 That if, in fact, it is the serious issue that you
15 say it is -- and I agree that it's not just the safety and
16 the well-being and health of the people in the United States
17 who are being sold these terrible, destructive products, but
18 it is a national security risk as well.

19 But the reason why everybody is willing to take
20 this risk in Mexico and the reason why there is this war, the
21 war is over money.

22 The war, everything that I've read, including when
23 I was United States Attorney, is that it's all about who is
24 going to control the greater part of what's being transported
25 and distributed within the United States, not -- part of it

1 I think is just raw power. I think most of it is the more
2 you control, the more money you make.

3 And because they were willing even to war amongst
4 themselves and putting at risk not just themselves but their
5 families and their neighbors and their communities and the
6 honest law enforcement officers who were trying to stop what
7 was going on in Mexico separate and apart from those that
8 might be corrupt, and ultimately in order to protect
9 transportation at our borders that would prohibit those drugs
10 from coming in we send willing American law enforcement
11 officers to go and engage in dangerous work in a country
12 where they shouldn't have to go.

13 And why do they do that? Because at the very
14 cartels, including the defendant's, that we have been
15 harping on for the last fifteen minutes, they have put
16 their country, their government, their people, their
17 families, and themselves at risk. And our response to that
18 is if you want to do that, do it at someplace other than our
19 country.

20 So we can't parcel out there are moments when he in
21 his own self-interest tried to engage in conduct that would,
22 in fact, benefit himself against the overwhelming information
23 in this PSR and the case involving Mr. Flores as to what
24 exactly he did in the United States to the safety and
25 well-being of citizens.

1 Now, the government I think recognizes that
2 there have -- that those moments are entitled to some
3 credit. But I don't think the guidelines and a departure are
4 intended to say let's go find a guideline range that would
5 help him and go down there.

6 The question is -- because I'm not sentencing just
7 this case. I've sentenced cases over the past 14 years, and
8 there has to be some reasonable proportionality to the amount
9 that you are going to reduce from a sentence.

10 And the reason why it's hard to do it in this case
11 is because this PSR is just littered with the evil conduct
12 that you have acknowledged and I think even the defendant has
13 acknowledged.

14 The reason why we start out at life is because this
15 is -- and I think you will agree with this -- one of those
16 rare instances, maybe only the second guideline life sentence
17 that's been recommended in my tenure on this court -- and
18 I have had a lot of serious cases -- because what he has done
19 is dangerous, it ruins American communities, it kills
20 people.

21 And it's in that context that we are trying to
22 carve out some credit to give him some benefit for the times
23 when, even though self-servingly motivated, he in fact did
24 some right things.

25 But the one thing he never did was walk across the

1 border and say I have put myself in an untenable situation,
2 I can't put up with it anymore.

3 He's a very bright man. I've believed that from
4 the moment I first was assigned this case and read the
5 background. And I think he's a very good businessman, which
6 is the reason why his cartel was successful.

7 And I think that in his calculation as to what he
8 would do in providing information to the United States, he
9 deployed those two things, his intelligence and his business
10 savvy, to try to strike the best deal that he could.

11 And from what you have even said -- and what
12 I think is true -- the best deal from him was to extract
13 himself from this business and get some protection and try to
14 get some help to protect his family. But that didn't
15 happen. But it could happen.

16 So I understand all of your arguments.
17 I appreciate them. I think you are doing the kind of job
18 that I appreciate in trying to look at all aspects of a
19 sentence.

20 But this is a very serious case, which makes it so
21 hard to credibly argue for a reduction, which what the
22 government is willing to make in my mind has been fairly
23 generous and puts him in a place where it's not just the
24 sentence, but one of the advantages of the 15 percent
25 reduction is that he's going to go into an environment

1 where it will help the authorities that are responsible
2 for his incarceration and I think will help people that
3 want to cooperate to say that if you can get below the life
4 level and get a term of years, you can reduce it
5 significantly.

6 Because 15 percent of 42 is more than 15 percent of
7 22, so he does get a benefit if he can behave himself in
8 prison and get the 15 percent reduction, and that's available
9 to him.

10 And that's totally up to him, and I think that
11 that's one place where he can be motivated not to engage in
12 the evil that he's done in the past, but to engage in the
13 good that he's possible of engaging in in the future.

14 And I just -- I understand what you are saying,
15 but the question is what's fair in the context of this case
16 and what's fair in the context of other cases that I have
17 sentenced.

18 MR. PARKER: Well, I'm certainly not standing
19 before the Court to question the Court's comments or to
20 argue with the Court. I have tried to make a credible
21 representation to the Court.

22 THE COURT: Well, I think you have.

23 MR. PARKER: And as the Court well knows, I have
24 been in the business of criminal justice since the mid '70s,
25 and I was prosecuting many of these cases, some of these

1 cases as the Court well knows, and I'm not about to suggest
2 that the facts as the Court has described them are not the
3 reality of the circumstances that this defendant finds
4 himself before this Court.

5 But what I am trying to do on his behalf, but
6 also on behalf of the system -- to be honest, it's on
7 behalf of our system as designed by Congress and as always
8 been recognized in American jurisprudence -- which is
9 prosecutorial discretion and in the sentencing regime of
10 our country, our federal sentencing regime, the recognition
11 of a downward departure for assistance and cooperation to be
12 measured against the conduct that the defendant in question
13 is being held accountable for.

14 And you are absolutely correct, it's a difficult
15 judgment as to what is the quantitative value of that
16 downward departure assistance that should be imposed in this
17 case, and that's your job, not my job, and I don't envy the
18 Court in that regard.

19 But I will say this, and then that will conclude my
20 remarks. For whatever it's worth, and I'm not dismissing
21 this, no matter how much cocaine one deals with, no matter
22 how much marijuana one deals with, or heroin, or whatever the
23 controlled substance is, the guidelines provide for level 38
24 for that conduct.

25 Now, enhancements come along, enhancements that

1 were reflected in this PSR, and those enhancements involved
2 conduct that clearly was in Mexico.

3 I'm not dismissing that. I'm not saying it's not
4 something to be considered. I'm just saying that's where it
5 was; okay? And --

6 THE COURT: But it was in Mexico because he decided
7 to leave Laredo.

8 MR. PARKER: I got it, I got it. But, you know, it
9 wasn't here, it really wasn't, and it really wasn't part of
10 the murder and mayhem in the United States.

11 Now, that doesn't mean, because the
12 Eleventh Circuit -- we all understand agency principles and
13 we all understand reasonable foreseeability, and we all
14 understand how the law applies that in an appropriate way to
15 others to be held accountable, and, yes, the Court was right
16 in saying he was a member of the cartel, he was a member of
17 the group and the people who put these DEA agents in --
18 yes, all of that is correct. It's correct based on the
19 arguments of agency and reasonable foreseeability and all of
20 that.

21 But he specifically disclosed those facts at that
22 point in time so that those individuals would not be killed,
23 to be blunt; okay?

24 That was his life, that was his doing, his
25 decision, whether it's motivated for selfish purposes or

1 whether it's part of some innate sense of right and wrong
2 that was instilled in him by his family. And the Court is
3 going to hear some representations from his family, I know
4 that.

5 But my point is it happened. Was that of value?
6 I would think it was of value.

7 Anyway, I have sort of made my arguments,
8 Your Honor.

9 THE COURT: Well, I appreciate it.

10 MR. PARKER: And in that regard, we would recommend
11 that the sentencing level be -- that the 5K motion be granted
12 and that the Court -- I'm not -- to be honest, I wasn't aware
13 there was a footnote in the guidelines that reduced the
14 calculation down to 43 as a matter of law, I guess. But we
15 are arguing that it should be reduced to a level 38, and that
16 the sentence be within that guideline range.

17 THE COURT: All right. Thank you.

18 MR. PARKER: Thank you.

19 THE COURT: Would the government please respond to
20 Mr. Parker's remarks?

21 MS. HATHAWAY: Your Honor, I don't think I have
22 any response in terms of the 5K. If we are moving to a
23 reasonable sentence, I'm happy to address that.

24 But I think the Court has identified the
25 government's concern just in terms of the 5K as for the

1 conduct that occurred before Mr. Valdez was extradited.

2 THE COURT: What's your response to his disclosure
3 about this known -- this information that was known in Mexico
4 about the identity of DEA agents, including some that were
5 undercover? Because I didn't see much emphasis, if any, in
6 your memoranda.

7 MS. HATHAWAY: No, Your Honor. My understanding --
8 actually may I have just one moment, Your Honor?

9 Your Honor, thank you.

10 The government acknowledges that that information
11 was given to U.S. authorities, but there was no
12 knowledge of -- the United States was not able to verify
13 whether there were any hits put on any of these agents or
14 whether there was any specific threats made to these agents
15 beyond the information of who they were.

16 THE COURT: Well, I mean, that might be true, but
17 it has to be incredibly valuable to the DEA and other law
18 enforcement to know that that could have happened -- or
19 that that did happen, they believe those identities were
20 known.

21 MS. HATHAWAY: That's correct, Your Honor.

22 THE COURT: What we haven't said is that they might
23 have taken -- in fact, I would suspect that law enforcement
24 once aware of that took some precautions to make sure that
25 their safety was protected.

1 MS. HATHAWAY: That's correct, Your Honor, I would
2 assume the same as well, and certainly that would be valuable
3 information.

4 THE COURT: So where does that come in? If you
5 haven't considered that yet in your recommendation and it
6 is conduct that occurred before he was apprehended or at
7 least extradited to the United States, isn't that important
8 enough to maybe reconsider the recommendation that you have
9 made of nine points based upon the information that was in
10 your motion, which is the only information that I would
11 consider.

12 Although I think there is something to whether
13 or not he ought to get some incremental additional benefit
14 for this particular disclosure that was made, for which he
15 might have gotten some benefit as far as the way we felt
16 about him, but there doesn't seem to be any immediate
17 benefit unless it was to have all of those agents
18 withdrawn to make it easier to conduct drug-trafficking
19 activities.

20 MS. HATHAWAY: Your Honor, I don't think it causes
21 me to reconsider the recommendation, because we are going
22 from, as the Court pointed out, a life sentence to something
23 other than life, and that's really to me the value of sort of
24 the totality of all of the information that Mr. Valdez
25 gave.

1 For exactly what the Court pointed out, as much as
2 that is important information, as well Mr. Valdez at the same
3 time is still trafficking in drugs, he's still the exact
4 threat that he was before where, I would posit to the Court
5 still, as the Court says, he has the business acumen to be
6 structuring a situation where his competitors are being taken
7 out by law enforcement while he at the same time is in
8 discussions with the government to either come in -- or,
9 rather, first, not to have any charges, to have the charges
10 dropped, or then was offering to come in to plead to a
11 five-year sentence.

12 And I think what he was doing, I think the evidence
13 shows, is that he was trying to create a situation where his
14 competition is out, and he is basically untouchable at least
15 for his past conduct, that he's starting afresh as the leader
16 of whatever organization would be left. And so he's doing
17 that at this time period for his own gain.

18 So, yes, the information about the DEA agents is
19 helpful, but, again, we are taking everything into account
20 and saying because of his cooperation, we think the Court
21 should depart to a level that would frankly get to from 360
22 to life, and we were really targeting the number of levels to
23 get the Court to an advisory guideline range that would be
24 something other than life, although life is still at the
25 maximum.

1 That any incremental value, I don't think that
2 says, well, you were willing to go to 42, now you should go
3 to something less, because what we are looking at is the
4 ability for the Court to give Mr. Valdez a term of years, but
5 not a guideline sentence -- frankly, I think the next level
6 down is 324 to 405, if I'm not mistaken, Your Honor, and I
7 don't think that that is a reasonable sentence for
8 Mr. Valdez.

9 So what the government has done is looked at
10 everything and not incrementally you get so much for this and
11 so much for this and so much for that.

12 So, Your Honor, I think the totality of the
13 circumstances for all the reasons the Court identified would
14 still -- taking into account that information, the
15 government's recommendation would still be for that
16 nine-level downward departure to get to a level 42.

17 THE COURT: The way I approach downward
18 departures -- and I think ultimately that both parties in
19 this case have looked at where you land in the guidelines
20 and not necessarily what is the proper reduction based upon
21 the quality and the quantity of the cooperation.

22 And I think the government has acknowledged that
23 they didn't want to go down an additional point because that
24 would cap it at 405, because I think everybody knows that
25 I believe in the guidelines and they have substantial

1 influence on me, and I told that to Mr. Villareal when
2 I accepted his pleas.

3 So for me it's what is the proper and fair amount
4 based upon the quantity and quality of the defendant's
5 cooperation in this case. And I think quality and quantity
6 in this case is motivated by mixed motives.

7 To some extent I think the defendant, you know,
8 offering to cooperate did so because he thought that that's
9 what a responsible person would do and would like to get
10 credit for the help he tried to give the government.

11 And there are cases where somebody cooperates and
12 I believe that they have had a cathartic moment and believe,
13 in evaluating their life, that it's time to right wrongs, and
14 that's evident from the quantity and quality of the
15 cooperation that they give, and is not often preceded by some
16 negotiations where you do try to get some personal benefit
17 with respect to how you are going to be treated by trying to
18 reach a deal on what exposure you have.

19 Here the cooperation occurred after he had been
20 finally extradited but first having been arrested and now
21 knew that he was going to be in U.S. custody, and that in
22 calculating what was in his best interest, it was best to
23 find some information that would be helpful for which he
24 could be given credit.

25 But I believe that Mr. Villareal is a bright person

1 and I don't think that he does anything without a
2 calculation, and that that calculation is what's the risk and
3 what's the benefit.

4 I don't think that this is a defendant who has
5 decided that it's in the best interest of the people, the
6 citizens of the United States and law enforcement generally
7 to attack what I think Mr. Parker has done a good job of
8 describing, which is a terrible problem in Mexico and a
9 terrible problem in the United States, which regrettably
10 almost always originates in Mexico with cartels.

11 So in looking at what would be -- whether you look
12 at it as a percentage or you look at it in raw numbers, one,
13 I believe that he is entitled under 5K 1.1 and the criteria
14 that I'm supposed to apply, that he is entitled to a
15 reduction under 5K 1.1, because the information he provided,
16 in my assessment of the information provided in the motion,
17 was useful, but not to the extent that I have seen other
18 cooperation useful.

19 I accept from the government that his information
20 was truthful, but I'm not convinced that it has been entirely
21 complete, but I'm going to assume that it was more complete
22 than incomplete.

23 The nature and extent of the defendant's
24 assistance. For the same reason, I believe that the nature
25 of it was to provide substantive information that was helpful

1 to the government, including with one prosecution in the
2 District of Columbia that ended up being shorter and resolved
3 quicker as a result of the assistance and the disclosure of
4 the defendant's assistance in that case.

5 I do think that his cooperation put people at risk,
6 including himself.

7 And the timeliness I don't think is a strong
8 motivation, because it didn't occur until he was finally
9 brought to the United States and it became clear that he was
10 going to be prosecuted and punished for what he did.

11 So looking at it from those criteria, I believe
12 that they balance in favor of granting the motion, which I am
13 going to grant.

14 And with that same analysis of whether I look at it
15 as a raw number or look at it as a percentage off of the
16 original guideline recommendation of 52 offense level,
17 I believe a nine-point reduction is fair and reasonable in
18 the context of others that I have given, and I am granting
19 the motion for a nine-point reduction.

20 Which reduces his total offense level now to 42,
21 which provides for a custody guideline range of 360 months to
22 life.

23 MS. HATHAWAY: Your Honor, just to -- Your Honor
24 had mentioned the offense level was 52. It was actually 51.

25 THE COURT: Fifty-one, minus nine, still takes us

1 to --

2 MS. HATHAWAY: Yes, Your Honor.

3 THE COURT: My math is correct. My recollection
4 was lacking. It reduces him to a -- a nine-point reduction
5 reduces him to an offense level of 42.

6 So with that ruling, let's now move on to the next
7 portion of the proceeding, which would be to hear anything in
8 extenuation or mitigation.

9 After that is presented, Mr. Parker, whoever you
10 want to call, want me to hear from, I then would like to hear
11 from you as to what you think would be ultimately a
12 reasonable sentence in the case. And then I will hear from
13 Ms. Hathaway.

14 Then the last person I would like to hear from is
15 Mr. Villareal.

16 MR. PARKER: Your Honor, at least two family
17 members would like to address the Court, if they may?

18 THE COURT: Yes.

19 MR. PARKER: I would like to ask Ms. Karla Valdez
20 to approach the lectern?

21 Your Honor, Ms. Valdez is the sister of the
22 defendant, and she also is an assistant district attorney in
23 south Texas.

24 THE COURT: That is your job in south Texas?

25 MS. KARLA VALDEZ: That's correct. Good morning.

1 THE COURT: Good morning.

2 MS. KARLA VALDEZ: As previously stated, my name is
3 Carla Valdez, Judge. I'm Edgar's baby sister, number eight
4 for the family out of eight children as I have six sisters
5 and one brother, all of us present here today. Including our
6 parents, nine out of the 27 nieces and nephews, those of
7 which includes Edgar's kids, which I will get to in a few.

8 Your Honor, we come from humble beginnings, from
9 hard-working parents, who although only have a third-grade
10 education themselves have taught us more about life than any
11 educated person ever could.

12 They taught us strong values and morals, integrity,
13 discipline, respect, generosity and kindness, amongst many
14 others.

15 They taught us to love and honor God, to always
16 help and give to others, and taught us that nothing in life
17 comes free and that one has to work very hard to achieve
18 success.

19 As mentioned, I am a prosecutor for the State of
20 Texas, and so is my husband. Many of my siblings are
21 self-employed and have their own businesses, and the rest
22 work for those that do. We are a tight-knit family. We are
23 not career criminals. Our parents never taught us that.

24 Our parents instilled fear in them and fear in
25 God. We were all afraid of our parents growing up. I'm 34

1 years old right now, and sometimes I still am afraid of
2 them. I guess that goes back to respect, Judge.

3 THE COURT: I don't know. You should always be
4 afraid of your parents.

5 MS. KARLA VALDEZ: Yes.

6 My brother strayed from the flock, yes. But no
7 matter how much one may lose sight of their values, at some
8 point in their life one always comes back to them, and Edgar
9 definitely has.

10 He's a father of six kids: Victoria 18, Edgar 16,
11 Abel 13, Arturo 11, Sofia 10, and Jesus 7. And although he
12 has been away from them, he has always been attentive to them
13 and to their education, always instilling good moral
14 character in them.

15 Each one of his children have excelled tremendously
16 in school because of their dad, because he has encouraged
17 them and told them that education is the most important tool
18 in life.

19 Victoria, for example, the eldest, graduated from
20 high school just last year with top honors and is now
21 attending the University of Texas in San Antonio.

22 And his son Edgar earned the highest score of all
23 eighth graders -- sorry, Judge -- in his standardized science
24 exam, and he has been continuing to excel since and is in
25 line to graduate high school next year.

1 All the rest, they are all following in those very
2 same steps, Judge.

3 Our brother Edgar is a good-hearted man. He's a
4 man of few words, but with a very positive attitude and a
5 good spirit.

6 He's a jokester at heart, with a great sense of
7 humor. He has always been very likable. He loves to make
8 people laugh, and he does it well.

9 He's a man who cares for the well-being of others,
10 who always has been giving and kind to others, who has
11 recognized his wrongdoing, and has gotten to know God and His
12 word.

13 I was just visiting with him this past weekend,
14 Your Honor, and I was telling him about a disagreement I had
15 had with another family member, and I was arguing and I was
16 telling him how I was right and she was wrong.

17 And as much as I tried for him to see my side, all
18 he said was one thing: *No tiene Jesus en tu corazon. Que no*
19 *sabes perdonar.*

20 THE COURT: Can you help me with that?

21 MS. KARLA VALDEZ: Yes. He said you don't have
22 Jesus in your heart, that's why you don't know how to
23 forgive. He made me feel this small, because him in battling
24 everything that he's going through right now minimized it to
25 just one thing, Judge.

1 He is a God-fearing man, and he always has been,
2 but right now more so than ever. He's a transformed man,
3 Judge, that will one day, if given the opportunity, stand and
4 abide in society and help others not fall in the same steps.
5 His testimony, Judge, will be a positive one, one that will
6 serve others, but most importantly to him, one that will
7 serve the Lord.

8 We have a father, Your Honor, who has dedicated
9 maybe the last fifteen years of his life, maybe even more, to
10 going daily to the eucharistic chapel, I mean, Monday through
11 Sunday. Sometimes there is family gatherings and he won't
12 go. He has dedicated the last years of his life, Your Honor,
13 to going and just praying.

14 Sure, he prays for all of us, but I could assure
15 you that most of his prayers are for his son Edgar and for
16 this very day, Judge. For this very day.

17 And what keeps us believing in our brother and
18 loving him is the fact that he is a good person, that he came
19 from a good home, and we wish more than anything in the world
20 that you, the man who decides his fate, could know him just
21 as well as we do.

22 Today, Your Honor, we plead for compassion and for
23 mercy. We plead for compassion and mercy for him, for his
24 children, and for us, his family.

25 Thank you, Your Honor.

1 THE COURT: Can I ask you a couple of things?

2 MS. KARLA VALDEZ: Of course.

3 THE COURT: First, I believe this is probably the
4 hardest court presentation you have ever had to make.

5 MS. KARLA VALDEZ: Definitely.

6 THE COURT: And I understand that.

7 Sentencing, as you know even from your perspective,
8 is a really difficult thing to do, and I listen hard to what
9 people say in the courtroom. And you have done that
10 eloquently, and I appreciate you having the courage to do
11 this.

12 But I also look really hard at the information
13 that's in the PSR and the other information presented to me
14 during the course of a sentencing proceeding and before.

15 Here is what I don't understand. I think
16 anybody -- I mean, my parents were relatively poor and they
17 finished high school but never got to go to college, and
18 their whole goal in life was to care for their children and
19 to make sure that they had opportunities.

20 And I was afraid of my parents, especially my
21 mother, who was I think sometimes too hard on me, but it was
22 always because she wanted to make sure that I had more than
23 she had and my dad had.

24 Your parents strike me as exactly the same people,
25 and the fact that you were brought up in a faith tradition,

1 which I respect a lot, makes me wonder why are you a
2 prosecutor and why is your brother a seriously evil
3 criminal.

4 And it just doesn't make sense with the background
5 that you have described --

6 MS. KARLA VALDEZ: Your Honor --

7 THE COURT: -- that anybody would engage in --
8 I mean, I can understand people cheating, and we have people
9 that steal money from people or cheat them out of money and,
10 you know, occasionally we have smaller drug transactions.
11 But this?

12 And you know, because you are from Texas, and it's
13 the southwest border that all of these drugs come across,
14 and you know how detrimental it is to our communities and to
15 even our democracy.

16 How could this have happened in your family?

17 MS. KARLA VALDEZ: Your Honor, that's a question
18 that we ask each other every day. I mean, people back home
19 look at us and they still don't believe it. We all live,
20 Your Honor, in a surreal reality, and we turn on the news and
21 we see our brother, and we don't believe it.

22 And I know Your Honor mentioned, you know, how is
23 he so evil. Your Honor, I think it's very simple to believe
24 everything that we read, everything that we hear, without
25 actually knowing that person. It's so easy for us to judge.

1 He's not an evil person, he does not have an evil
2 heart, and I think it's safe to say that from all of us
3 present here, from all his family, I think he's the one with
4 the kindest heart. If that makes any sense to you?

5 Why am I a prosecutor, why I went to law school?
6 Because I thought that one day I could help my brother out.

7 But there is just no way. I could never amount --
8 or be able to live with representing him and having to live
9 with the outcome.

10 THE COURT: He did this for a long time. Were you
11 ever aware?

12 MS. KARLA VALDEZ: No.

13 THE COURT: Because I think you are shocked by the
14 scope and severity of his criminal conduct. Did he hide that
15 from you?

16 MS. KARLA VALDEZ: Yes, Judge.

17 THE COURT: And was he good --

18 MS. KARLA VALDEZ: He hid it from everybody.

19 There were tough times in our family. My parents
20 before I was born -- you know, we had eight children -- my
21 father had to hold two jobs. Eventually they opened up a
22 small store in downtown Laredo, a novelty shop.

23 And because it's a border town, there was a
24 huge devaluation of the peso down there, and so many
25 people wouldn't come over to cross the border to the U.S. to

1 shop, and so my parents had to present themselves in
2 bankruptcy. I remember having a conversation with him once
3 and him saying that it kind of all started stemming from
4 that.

5 My parents were having a tough time and, you know,
6 on the weekends would have to go to the flea markets, and we
7 actually all came along with them to help sell everything
8 that wasn't able to be sold at the store when it closed
9 down. Same thing, my brother -- I'm sorry, my father would
10 take him and all of us to go and help.

11 I remember having a conversation with him and him
12 saying that it just -- it became easy initially. It was just
13 easy, it was easy money. And he was trying to help out the
14 family just because of the tough times that my parents were
15 going through.

16 And I think it just snowballed from there,
17 Your Honor. I think it was just one thing after another and
18 after another. And when he wanted to get out, I don't think
19 he could.

20 THE COURT: Well, two other things occur to me.
21 You are more familiar with the law enforcement policy, but
22 I try to ask myself what would it have been like to have been
23 him, and there are two things that strike me.

24 That there were times when he was on a telephone or
25 in a conversation with somebody, and there is talk about tons

1 of cocaine -- or hundreds of kilos of cocaine that they were
2 procuring for transportation into the United States, he and
3 the other people that he was dealing with. And we both know
4 that there were lots of those conversations, because the
5 scope of his activity would have required lots of
6 conversations and contacts.

7 Every time that he had one of those conversations,
8 it's hard to believe that he didn't know exactly what he was
9 doing. So when he says that it was easy money, it's more
10 than that.

11 MS. KARLA VALDEZ: I think initially. And
12 obviously I'm not aware of what's in the court record,
13 Judge. I think initially that's what he meant. Initially
14 going in, wrong crowds, hanging out with the wrong crowds
15 perhaps, that became easy money initially.

16 THE COURT: But --

17 MS. KARLA VALDEZ: Conversations that perhaps you
18 are referring to, I'm not sure at what level those were
19 made. If in fact, you know, he was on the other end of that
20 call, for example, that you are referring to, I'm not sure at
21 what level in his life or in business he was in.

22 And so when I -- in going back to the conversation
23 that I had with him, you know, why he got into all this,
24 initially it was just easy money.

25 THE COURT: Easy money.

1 MS. KARLA VALDEZ: So I'm not saying later down the
2 road he didn't know what he was doing. I mean, he did plead
3 guilty and he understands what he did, Your Honor, and he
4 acknowledges what he did and he knows that what he did was
5 wrong. And he's apologized to us and to my parents numerous
6 times for having put us through this.

7 THE COURT: Well, first of all, none of your family
8 is responsible for what he did.

9 MS. KARLA VALDEZ: I know.

10 THE COURT: And if anything, I would say that I am
11 grateful that he didn't try to, as in other cases I have had,
12 try to draw family members into the business.

13 And I'm assuming for the purposes of today that he
14 didn't do that.

15 MS. KARLA VALDEZ: He did not, Your Honor.

16 THE COURT: And you have an intact family that
17 loves and supports each other, and that is something that
18 will allow you to get through anything, including this.

19 Here is the other thing. Do you have children?

20 MS. KARLA VALDEZ: I have one son.

21 THE COURT: And how old is he?

22 MS. KARLA VALDEZ: He's ten months. He's asleep
23 right now.

24 THE COURT: Yeah, I saw him. No, I think he's
25 actually gone outside now.

1 MS. KARLA VALDEZ: Oh. Yeah, he has.

2 THE COURT: Here is what I don't -- I'm a dad,
3 I have got two sons, and I now have four grandchildren.
4 I can't imagine what it would be like to know that you have
5 just done a huge cocaine deal and walked through the door of
6 your house and be in the presence of your children and your
7 spouse knowing what you have just done.

8 Nobody, no father would do that, no husband would
9 do that, unless whatever he was doing was more important to
10 him than they were.

11 I'm glad that he's I guess isolated that conduct
12 from his family, but I have a hard time sometimes when I have
13 done something wrong walking in, especially when I was
14 younger and my kids were at home, walking into the presence
15 of my children and known that I had done something that would
16 have disappointed him.

17 He's done something that could have gotten them
18 in -- could result in this, which is separation from them.
19 And why doesn't the love of a family say: I just can't do
20 this anymore. I can't do this to them. I can't do that to
21 you. I can't do that to my folks.

22 So there is something that motivates, a powerful
23 motivation, that caused him to ignore what he would and is
24 putting you through, what he would and is putting his
25 children through, that was much more powerful than all of the

1 good values that you have been taught that has brought you to
2 the job that you have and all the values taught to your
3 siblings and now the values that you will pass along to your
4 children.

5 And all of that goes into my calculation of how
6 could somebody have engaged -- and maybe I agree with you,
7 calling him evil is wrong, because in the sight of God we are
8 all forgiven what we have done, but we are responsible for
9 our conduct.

10 And the conduct that he -- it was the conduct he
11 engaged in that had evil results, and that is why we are here
12 today is to hold him accountable for that.

13 From one lawyer to another in the same law
14 enforcement environment, I want to thank you a lot for coming
15 here and speaking today. I know how hard it is. You have
16 given me some perspective that's important.

17 And to you and all the members of your family
18 I hope God protects you, I hope that you will continue to
19 look to Him as far as your strength and whatever redemption
20 and forgiveness you need to extend, and if there is any
21 bright spot in all of this day, it is you and your family.

22 Thank you for speaking.

23 MS. KARLA VALDEZ: I appreciate it.

24 If I may just say one last thing?

25 THE COURT: Of course.

1 MS. KARLA VALDEZ: Your Honor, he felt trapped.

2 And I know it's hard coming back home to your
3 family after what you just mentioned, a deal, for example.
4 He was damned if he didn't, he was damned if he did,
5 Your Honor. If he got out, he could have gotten killed,
6 gotten his family killed. He just kept going.

7 He's regretful, Judge. And I know it's not up to
8 me to say that he won't do it again, but he has told us that
9 this is behind him, that he definitely did stray as I
10 mentioned earlier, and that he wants his testimony to go on
11 and just to impact somebody positively, Judge. And we
12 feel -- we all do believe that he will go on and do that.

13 I thank you for your time, Your Honor.

14 THE COURT: Thank you very much.

15 MR. PARKER: Your Honor, Mr. Abel Valdez, the
16 defendant's brother, would like to speak to the Court.

17 THE COURT: Thank you.

18 MR. ABEL VALDEZ: Good morning, Your Honor.

19 THE COURT: Good morning.

20 MR. ABEL VALDEZ: My name is Abel Valdez. I'm the
21 oldest of the Valdez family.

22 In Laredo I was a probation officer for four
23 years. I was a sheriff deputy as well.

24 Going back to your question why, how with all these
25 values he took the wrong path, it's because he was young and

1 dumb. I know that now he regrets everything he has done.

2 I'm not here to tell you -- Judge, he needs to be
3 punished. I'm not here to tell you or ask you to let him go
4 right now. He needs to get punished.

5 I just want you to give him enough time so he can
6 spend time with his kids, my mom and my dad.

7 And in jail -- on the outside they used to call him
8 Barbie. In prison they call him the Christian Boy. That's
9 his nickname right now. And I'd just ask that you see that
10 in him.

11 THE COURT: You know, we all have an impact
12 wherever we are placed. Paul and John had their greatest
13 impact when they were in prison.

14 You know, the character of your family, just from
15 the two of you that have spoken, it reinforces in me what
16 good values your parents extended to you.

17 It is also really interesting that those values
18 took you and your sister into law enforcement, and here we
19 have, I mean, literally twenty feet from you somebody who
20 chose not just a different life, but a terrible and different
21 life.

22 While you were serving and when your sister serves
23 in her responsibilities, you are helping people, you are
24 holding people accountable for what they do, you are
25 protecting the community.

1 If we really drilled down to what happens when
2 somebody brings a quantity of substances that are illegal
3 into the United States and we look at the ultimate human
4 impact that it has -- which sometimes in an environment
5 like this we are just looking at what did he do and what are
6 the good things about him.

7 But for a long time I have been involved in this
8 program up at Kennesaw State University with kids, young
9 adults, that have basically had ruinous academic performance
10 because of drug addiction. Very little alcohol, most all
11 drug addiction. Some methamphetamine, a fair amount of
12 cocaine and marijuana. And this program allows them to come
13 back to school in a peer-supported environment where kids
14 there in recovery support each other.

15 But I have in my office a video where we tried to
16 explain what these kids have gone through and how they have
17 redeemed themselves, and most -- all of them graduate and
18 they go on to get advanced degrees.

19 But to listen, there is one in particular, there is
20 a young girl who was using drugs, and tells the story about
21 having just this utter sense of hopelessness in the midst of
22 her addiction, and going into her garage at her parents'
23 home, rolling the garage door down and starting her car,
24 because she just could not live any longer. And for some
25 reason somebody opened the garage door.

1 And she said at that moment she realized that she
2 had two options: Death, or to turn her life around. And
3 it's taken her a remarkable period of time to do that, but
4 she has.

5 That is somebody who is on this video because she
6 survived. What's not on the video are the people who
7 didn't. And that's the end result when you pour the kind
8 of drugs that your brother and those that he was working
9 with and coordinating with, that's the human toll that's
10 taken.

11 There are families that are not here that could
12 come in and say as the result -- if we could trace the
13 cocaine back, that would say my son at 15 years old was
14 killed because of his involvement in drugs.

15 You know that, and I know that, and the government
16 of the United States and its Congress knows that. That's
17 why the guidelines for drugs is pretty tough. The guidelines
18 for people that are at the level of your brother are very
19 tough.

20 And, frankly, in the time that I have been here and
21 looking at all the cases that my colleagues hear, the level
22 of your brother eclipses everybody else.

23 That's why this is a tough day for you, for your
24 family, and it will be a tough day for your brother.

25 Because there is a very real human toll, there is a very

1 real financial toll on communities, and there is a very real
2 toll on the fabric of communities.

3 And all you have to do is read what's going on
4 with prescription drugs and opioids in West Virginia,
5 where that state is literally -- parts of it are being torn
6 apart because somebody has seen fit to bring it into those
7 communities where there are people that are addicted and the
8 sales are robust, and we can see just in what's being
9 reported in the print media how it's ruining lives and
10 ruining cultures. And I know you know all of that.

11 But I don't want you to think that I'm
12 unsympathetic of the human toll that will be taken on your
13 brother. I already know the toll that's been taken on your
14 brother.

15 And sometimes I say these things because in my
16 mind I'm thinking what am I going to do, because I don't
17 know yet.

18 MR. ABEL VALDEZ: Thank you.

19 THE COURT: But thank you for coming.

20 MR. ABEL VALDEZ: Thank you.

21 MR. PARKER: Your Honor, am I correct -- we have no
22 further presentation on behalf of the defendant. Do I wait
23 until after the government takes its --

24 THE COURT: No, you should start, and then I will
25 hear from the government, and then you can respond to what

1 the government has said, so I will have your full view and
2 give you a chance to respond as well as present. And then I
3 will hear from your client.

4 MR. PARKER: So the responses -- Your Honor, given
5 the Court's previous ruling of 360 to life, the responses to
6 the argument for 360, which is thirty years, arguing for
7 thirty years, he's a defendant who is 44 years of age. As
8 the Court notes, he will receive hopefully, it's up to him,
9 good time calculation of about 15 percent.

10 Now, we do have the issue of the incarceration in
11 the Mexican jail which we have all agreed is 61 months from
12 sometime in 2010 until his extradition, which I believe was
13 in September of 2015.

14 Clearly once he came into custody of the U.S. --
15 I guess technically the U.S. Marshal's Service when he
16 arrived on extradition, that time that he has been held in
17 custody traditionally would be credited to the time the Court
18 imposes.

19 But as we previously discussed with the Court,
20 I believe the government has taken a position, which we
21 appreciate, that he should be given credit for the Mexican
22 incarceration period, and that we previously discussed with
23 the Court this morning possibly the Court, if accepting the
24 government's and our joint recommendation, that the Court
25 makes some mention of that in the imposition of its sentence.

1 So that is the position right now on behalf of
2 defendant Edgar Valdez.

3 Thank you.

4 THE COURT: Thank you.

5 Government?

6 MS. HATHAWAY: Thank you, Your Honor.

7 The guidelines call for a sentence of 360 months to
8 life. And if there was ever a drug trafficker who deserved
9 more than the guideline minimum, it is the defendant
10 Mr. Valdez.

11 Going through the 3553 (a) factors that I know the
12 Court will consider, I don't know if I could say anything
13 more or better than what the government already set out in
14 our sentencing memorandum about the nature and the
15 circumstances of this offense and how serious it is.

16 Sitting here today is one of the highest-level
17 drug-traffickers ever seen in this district, as the Court
18 just pointed out, a man who is conservatively being held
19 accountable for 12,000 kilos of cocaine. The level 38 of the
20 guidelines is 450 kilos or more. He's being held accountable
21 for 12,000 kilos.

22 He's a man who over a twenty-year period grows from
23 being a high school football star in Texas to becoming the
24 only American citizen to reach a leadership position in some
25 of Mexico's most infamous drug cartels.

1 As we discuss in our memo and as the Court
2 pointed out today, it didn't have to be that way. The
3 defendant is not someone who grew up in Mexico in the shadow
4 of the cartels. He is a United States citizen. He was a
5 football star. And from everything I have read and
6 everything I have seen here today from Mr. Valdez's siblings,
7 that he comes from a respectable and respected family in
8 Laredo, Texas.

9 Yet he decided to leave that life behind and chose
10 instead the life of the underworld, building at first his own
11 organization where by age 28 he was already responsible for
12 shipping hundreds of kilograms of cocaine into the
13 United States.

14 And from there, he methodically and ruthlessly
15 worked his way up to becoming a close associate of and a
16 top enforcer for Arturo Beltran-Leyva, both when Beltran
17 was a high-level member of the Sinaloa cartel and when
18 the Beltran-Leyva brothers broke off to form their own
19 cartel.

20 And as you saw from our sentencing memo, the path
21 that the defendant chose to reach those heights is littered
22 with violence, corruption and greed.

23 You read about how Mr. Valdez would buy off members
24 of the Mexican police, using official police vehicles to
25 escort customers to him, bribing officials to allow him

1 to hide his minions within police ranks, paying off state
2 and local law enforcement to act as his bodyguard and
3 intervene if he was ever stopped, and obtaining government
4 uniforms that he and his workers could wear to give the
5 impression not only that he was above the law, but that he
6 was the law.

7 And that was Mr. Valdez's nonviolent side. He also
8 had a brutal side.

9 Defendant and his organization arranged the
10 shipments of all kinds of weapons for him to use in his
11 defense, and he wasn't afraid to use them.

12 After losing control of the Laredo corridor,
13 Mr. Valdez sought the support of top cartel leaders to go
14 to war with the Zetas to win it back. With Arturo
15 Beltran-Leyva's support, he won that approval, and
16 together with three hundred of his men, he started an
17 all-out war to push the Zetas out of Nuevo Laredo and back
18 into Reynosa, a war which left an unknown number of people
19 dead or missing.

20 Indeed over the course of Mr. Valdez's criminal
21 career, we don't know how many people died at his hands,
22 whether by his pull of the trigger or at his command,
23 but I would submit to the Court that any death is one too
24 many.

25 And we know all too well about at least one of

1 those deaths. We know because defendant chose to videotape
2 an interrogation he and members of his security team had with
3 a Zeta member who had been sent to assassinate him.

4 And in our sentencing memo, we gave the Court the
5 link to the ABC news clip that shows you the end of that
6 interrogation. The barrel of the gun is placed to the head
7 of the would-be assassin and the shot is fired at point blank
8 range.

9 Now, to be fair, Your Honor, we don't know who
10 actually pulled the trigger, and the evidence suggests it was
11 not Mr. Valdez himself, but there is little doubt who gave
12 the orders to commit that murder or who approved the firing
13 of that gun.

14 And we know all about this murder because what is
15 so unique about Mr. Valdez is that, unlike most
16 drug-traffickers who choose to hide their dirty business in
17 the shadows, Mr. Valdez relished in the limelight, even and
18 maybe especially when it comes to his violent acts.

19 Having videotaped that execution, defendant and
20 co-defendant Carlos Montemayor had multiple copies of that
21 video made and sent to media outlets throughout Mexico and
22 the United States. He even -- Mr. Valdez even wanted that
23 video sent to U.S. law enforcement. He wanted the world to
24 know that you don't mess with Edgar Valdez. He was in
25 control.

1 And his efforts at letting the world know about him
2 was a success. That video went viral over the internet.

3 Meanwhile, Mr. Valdez's cocaine business thrived.
4 Defendant cultivated his own source of cocaine in Colombia,
5 bringing in literally tons and tons of cocaine into Mexico by
6 speedboat and submarine and airplanes, and then shipping
7 kilogram after kilogram of that poison into the
8 United States, including here into Atlanta.

9 And Your Honor got to hear first-hand how
10 defendant's operation worked when one of his top U.S. cell
11 heads, Hector Flores, went to trial in January of 2008. You
12 heard how this organization operated with military-like
13 precision.

14 And you heard how here in Atlanta in July of 2005
15 this organization stored 215 kilos of cocaine in a house, and
16 how one month later a truck was stopped leaving Atlanta with
17 about 2.5 million dollars' worth of cocaine proceeds, and
18 then in November when the case was taken down how agents
19 found another 120 kilos of cocaine and another 1.5 million
20 dollars.

21 In fact, you heard how this organization
22 distributed about fifteen hundred kilos of cocaine in just
23 six months in Atlanta alone, drugs that were poisoning our
24 community and communities like ours along the eastern
25 seaboard.

1 And I will remind the Court that after hearing the
2 evidence in that case, you described this organization as the
3 most efficient, ruthless drug organization you had ever
4 seen.

5 And yet that was the tip of the iceberg. That
6 didn't account for defendant's actions in Mexico, didn't
7 account for his ruthless acts of violence, nor did it account
8 for his continued distribution of cocaine.

9 Because even as the case here in Atlanta was being
10 taken down and numerous people like Hector Flores were
11 arrested, defendant continued to flood the United States with
12 cocaine, bringing in approximately six hundred kilos every
13 two to three weeks.

14 Simply put, the horrendous nature and
15 circumstances of this offense cannot be understated.
16 The requirement for your sentence to provide a just
17 punishment and promote respect for the law could not be
18 higher, and the need to protect the public from further
19 crimes of this defendant could not be greater, for there
20 can be no doubt that our community, that this country and
21 the country of Mexico are safer places with Mr. Valdez
22 behind bars.

23 Finally, Your Honor, I wanted to address the need
24 for deterrence, because I think that's especially great
25 here.

1 As I mentioned, Mr. Valdez did not hide in the
2 shadows. He was the very public face for all that is the
3 worst in drug-trafficking organizations, and yet his image
4 has reached almost mythic proportions. With his flashy cars
5 and fancy houses, he has been hailed in the media as the
6 American drug Lord or the modern mobster.

7 And when I think of deterrence, I think of two
8 specific things, Your Honor.

9 First, I want to refer the Court back to that ABC
10 news video clip which we cited to in our memo. There were
11 many things that were chilling in that video clip, including
12 the Zeta murdered, but I think one of the most alarming
13 things was the scene in which the high school kids in Laredo
14 idolized Mr. Valdez as the guy who had the money and the
15 women and the houses.

16 The sentence that you impose today needs to tell
17 those kids and kids like them that that is not the end of
18 the story. Edgar Valdez does not live out his life as
19 Midas in a mansion. This right here, this is the end of
20 Mr. Valdez's story. Decades in federal prison is where one
21 could expect to end up if they follow the path that he
22 chose.

23 The other reason why I think deterrence is so
24 important here is because Mr. Valdez's public image is a
25 basis for sending a message to all other high-level

1 traffickers who operate outside the United States. We will
2 still charge you. We will find you, and we will bring you to
3 justice.

4 And so for all of those reasons, Your Honor,
5 I think a significant term of imprisonment would be warranted
6 in this case.

7 Now, the government is not asking for a lifetime
8 term of imprisonment. That is the high end of the
9 guidelines, but we are not asking for that, because there are
10 still mitigating factors. All of the factors that we
11 discussed earlier regarding the 5K, everything that
12 Mr. Valdez has done since he has come to the United States,
13 and I would mention his guilty plea within about three months
14 of his arrival in the United States.

15 Now, I have been before the Court enough to know
16 how the Court feels about acceptance of responsibility beyond
17 the three levels that are accounted for in the guidelines,
18 and I respect that. But I would submit to the Court that an
19 early plea and agreement to cooperation in this case is
20 extraordinary.

21 The evidence in this case is voluminous, complex,
22 and, frankly, somewhat dated, and Mr. Valdez was not
23 intercepted on the wiretaps. Instead the case was built
24 against him mainly on the testimony of cooperating witnesses
25 who would have to come in to testify, and their testimony

1 would have to be corroborated.

2 While the government would have been happy to bring
3 this case to trial, we can't escape the reality of the cost
4 that doing so would entail not only in preparation time but
5 ensuring the safety of those cooperating defendants who would
6 be exposed to security risks once their cooperation became
7 known.

8 Instead, Mr. Valdez came in and immediately took
9 responsibility for his conduct knowing that he was surely
10 facing a life sentence. Mr. Valdez fully admitted his
11 guilt, and has not wavered. He didn't file any pretrial
12 motions, nor did he object to the Sentencing Guidelines,
13 which by enhancement took him from a base offense level of
14 38 to a total offense level of 54 and then 51 with
15 acceptance.

16 So I think if the Court were to sentence Mr. Valdez
17 to a lifetime or what is the equivalent of a lifetime term of
18 imprisonment, it would send a message to other high-level
19 traffickers that there is no benefit to pleading early and no
20 benefit to cooperating.

21 If the sentence is going to be the same whether
22 it's at arraignment or after conviction, I think it would
23 send an opposite message, that a lifetime -- that one might
24 as well out all the cooperators and make it as difficult as
25 possible for the government and the courts.

1 And so with that, Your Honor, I would ask the Court
2 to sentence Mr. Valdez to something that falls shy of a life
3 sentence. The government is recommending a sentence of 660
4 months, which is 55 years, on all counts of both indictments,
5 except for Count Nine of the Atlanta indictment because the
6 statutory maximum is 240 on that count.

7 And to explain how we got to the 660-month
8 recommendation, there are many factors we considered.
9 All of the 3553 (a) factors that I just mentioned.

10 We also considered the need to avoid unwanted
11 sentencing disparities both within this case and in
12 general. Within this case -- and I know that parity is
13 important to the Court -- we did look at the sentence of
14 Hector Flores, the U.S. cell head. The Court sentenced him
15 to 460 months.

16 Now, there are several differences between the
17 defendant and Mr. Flores, but given the culpability
18 difference between the two, a sentence less than that would
19 be unwarranted.

20 Also the government is very aware that the sentence
21 the Court imposes today is going to be the benchmark for all
22 sentencing of all future drug defendants both here and
23 possibly in other places in the foreseeable future.

24 It's not uncommon for drug defendants here who are
25 not nearly as prolific or as violent as Mr. Valdez to be

1 facing sentences of 25 to 30 years or even in the 360-month
2 range. And so I think the sentence today does need to
3 reflect that it is going to be the benchmark, that everyone
4 else in the future is going to say: I'm not as bad as
5 Mr. Valdez. He got X, I should get something less than
6 that.

7 So the government believes that a sentence of 660
8 months strikes a fair balance between all of the aggravating
9 and all of the mitigating factors, and it's a sentence, as
10 I said, that is just shy of life, but it does give Mr. Valdez
11 the opportunity, the possibility that one day he may walk
12 away a free man, while at the same time it ensures the public
13 if he does so, it will be at a time when he is no longer able
14 to inflict the kind of harm he has done.

15 Now, even though Mr. Valdez is currently 44 years
16 old, a 55-year sentence will not necessarily mean that he
17 will stay in custody until he's almost a hundred.

18 We talked about the time credit that Mr. Valdez, to
19 my knowledge, has been earning, and I expect that he wouldn't
20 do anything to jeopardize that in the future, and should he
21 get good time credit under the government's recommendation,
22 he could reduce his sentence by 99 months.

23 In addition, as we have all discussed already, the
24 government would be recommending to the Court that he get
25 credit for the time he served in Mexico. That's based on the

1 fact that the conduct, even if it's on Mexican charges,
2 I believe that the conduct that he was being arrested for was
3 part of this offense or relevant conduct.

4 I know Mr. Parker mentioned that the conditions of
5 confinement in Mexico were horrific. I will note for the
6 Court that at least in the beginning of Mr. Valdez's
7 incarceration it was not.

8 In the letters that Your Honor had received from
9 the defense, there is a letter from November of 2010 from
10 Mr. Valdez's attorney at the time asking authorities in
11 Mexico to keep Mr. Valdez where he was in custody at that
12 point because he -- and I'm quoting -- is well-guarded --
13 excuse me -- he is well-guarded, and for two and a half
14 months he's been treated humanely and his safety is
15 assured.

16 Now, I know he was moved from that facility, I
17 don't know when, but I will say, Your Honor, the blanket
18 statement that the conditions were horrific in Mexico I don't
19 think is correct.

20 So, Your Honor, with good time credit, a sentence
21 of 660 months would result or should result in an actual
22 sentence of 561 months, or almost 46 and a half years. And
23 if that date were to run from the date Mr. Valdez was
24 arrested in Mexico -- that would be in August of 2010 -- he
25 was 37 years old at the time, and it would give him the

1 opportunity to walk out of custody when he's 84.

2 Finally, Your Honor, justice would not be served if
3 the defendant were able to keep all of the profits from his
4 drug-trafficking. The government did file a preliminary
5 order of forfeiture asking the Court to impose a money
6 judgment of \$192,000,000. That is an extremely conservative
7 estimate, but an estimate of the profits defendant earned
8 over his twenty years of drug-trafficking, and that's based
9 on an estimate of twelve thousand kilos of cocaine sold for a
10 conservative average of sixteen thousand per kilo.

11 So in summary, Your Honor, for all of those
12 reasons, the government recommends that the Court
13 incarcerate -- or sentence Mr. Valdez for a term of
14 incarceration of 660 months to run from the time that he was
15 first arrested in August 2010, and also to sign an order of
16 forfeiture in the amount of \$192,000,000.

17 Thank you.

18 THE COURT: Mr. Parker, do you have anything you
19 want to respond to, including the judgment and forfeiture
20 that has been mentioned by the government?

21 MR. PARKER: We take no position on the
22 government's motion of money judgment, Your Honor. I accept
23 the calculation as the government has articulated as a
24 logical calculation, and clearly there is evidence in the
25 record to support a money judgment.

1 THE COURT: Would Mr. Valdez like to speak?

2 MR. PARKER: He would, Your Honor. Would you care
3 for him to remain at the table or --

4 THE COURT: Wherever he's most comfortable.

5 Do you need the interpreter or do you want to speak
6 in English?

7 DEFENDANT VALDEZ-VILLAREAL: Good morning,
8 Your Honor.

9 THE COURT: Good morning.

10 DEFENDANT VALDEZ-VILLAREAL: First, before my
11 letter, about what I was hearing I didn't walk over just to
12 turn myself in, it was my interest to turn myself in, and the
13 government has proof of that, because we sent letters proving
14 that, and they just told me to wait. And we got proof of
15 that.

16 I mean, that is no excuse, what I'm saying, but I'm
17 just saying what the government was saying, that myself,
18 I was going to turn myself in, and there is a letter from the
19 government saying hold off and keep on doing what you got to
20 do.

21 That they want to send a message to the people in
22 the Mexican cartel and all that, I mean, that's true, and
23 they can also send a message that the government is willing
24 to cooperate, so they can stop all this, the drugs and
25 killings there in Mexico.

1 I'm pretty sure there is a lot -- if they are
2 seeing that they could get a life sentence if they cooperate
3 and turn themselves in and stop what they are doing, killing
4 and all that, I know it will be a message we can send to them
5 that, you know, if it can happen to me, it can happen to
6 anybody.

7 On the case, I don't want to say we are not
8 agreeing with all the things they said, because I know
9 I accept my responsibility, but it's not all true what they
10 say in the PSR and my case.

11 About Flores and all that, I mean, it was their
12 things. But, you know, I know I did myself other things, but
13 it's not what they are saying. Six hundred kilos a week and
14 all that, it's not true.

15 John Horn when I talked to him, he told me in
16 front of them, you know, I know he was stymied. There is a
17 lot of guys that have been saying -- I'm not saying that I'm
18 not guilty, I accept my responsibility, but not everything
19 they are saying. But I know I have got to accept
20 responsibility.

21 And on the guideline, I'm not trying to tell you
22 what you have got to do, but there is a guideline that
23 starts only at 53 on the scale, I mean, the original one.
24 I mean, they got me at 51. I would like for them to start at
25 43, and for my responsibility to lower it three points and

1 end up at 40. From there, take into consideration my
2 cooperation.

3 I have got to say, I mean, I am saying I am being
4 truthful here from my heart, there is a lot of people being
5 killed, and like I say, I'm not saying that -- I accept my
6 responsibility, but me in my 44 years, I have never killed no
7 one. There are lot of people getting killed, but me, myself,
8 I never killed no one.

9 Those twelve thousand kilos they are saying,
10 I mean, yeah, maybe Arturo, the cartel, moved them, but they
11 got me too there, so I'm not saying I didn't move those, but
12 the cartel moved them. But I accept my responsibility for
13 some other things.

14 The submarines and what they say, I didn't do
15 that. But I'm not saying -- I accept my responsibility
16 because I was doing wrong, but not on that.

17 And, Your Honor, I give you thanks for allowing me
18 to speak today.

19 First of all, I want to accept -- sorry.

20 First of all, I want to say I'm sorry and apologize
21 and ask for forgiveness for the pain and suffering to all the
22 community I caused because of my actions.

23 To my parents and my family -- my parents and my
24 family for the shame -- I embarrassed them -- that I have
25 brought to them, and I put them and their lives in danger.

1 I want to say to my family that I love them very
2 much and I thank them for staying with me through this. My
3 parents, basically right -- they worked very hard to give
4 me -- to us the opportunity to be successful in life. My
5 parents taught me right from wrong, told me to stay away from
6 bad people and drugs. Instead of me doing that, and -- I'm
7 sorry.

8 Instead of me doing something good with the
9 honest -- with the values my parents showed me, instead of
10 good, I went the other way and did wrong.

11 My mom and my dad I want to thank for loving me and
12 doing the best you could to raise me right. I am sorry, mom
13 and dad, for doing things that -- I'm sorry, dad and mom, for
14 doing things that are against and hate -- let me start
15 again. I'm kind of nervous.

16 I'm sorry, mom and dad, for doing things that you
17 are against and hate, for the shame and disappointment
18 I caused you. Please forgive me.

19 Several years ago while I was incarcerated, I gave
20 my life to God, Yahweh, the Almighty. I'm not the same
21 person that I was before. The things that I hate doing in my
22 life -- the things that I have done in my life now I am
23 against.

24 I accept Jesus Christ as my savior, and God has
25 changed my life, because I was blind. I thought I was doing

1 good, helping people, donated money, donated drug money.

2 It has taken this process and me coming to prison
3 to see what drugs has done to the world. There is nothing
4 that I can say or do that can change the past, but the person
5 I am today can make a difference in the future.

6 In prison I'm a person that organized and have a
7 daily prayer group. I started with one person, one inmate
8 and myself. Now it has grown to thirty or forty other guys a
9 day. Dozens of inmates have attended over the years.

10 I am living my life as an example. I have clear
11 conduct for the eight years that I have been incarcerated in
12 prison. I talk about my life and use that as an example to
13 others, and I mentor others and show them that a life in
14 drugs will lead you to prison or death.

15 If given a chance, I want to mentor kids and young
16 adults about the consequence of drugs. I do not want to even
17 see anyone else make the mistakes that I have made. Now this
18 is in my heart.

19 In the Bible, Luke Chapter 15, my life is a lot
20 like the parable of the lost son. The son said to his
21 father: I have sinned against heaven and against you. I am
22 no longer worthy to be called your son.

23 The father then said: For this son of mine was
24 dead, and now he is alive again. He was lost once, and now
25 he is found.

1 Today, Your Honor, I stand here in front of you and
2 accept full responsibility for my actions. I have assisted
3 and fully cooperated with the government, with the
4 United States government. I have done everything that was
5 asked of me, and I have done what was in my power.

6 My family never had anything to do with my
7 conspiracy or organization. Due to my cooperation with the
8 United States government, my family's lives and my life is in
9 danger. We will be in danger for the rest of our lives. If
10 I am in prison or not, I will always be a target because of
11 my cooperation.

12 Because of my cooperation, my friends and the
13 people I grew up with and have known my whole life consider
14 me as a traitor and now think the worst of me. I know in my
15 heart that I have done the right thing, and I know that God
16 has spared my life for bigger reasons.

17 Your Honor, I have cooperated, and I am going to
18 keep on doing so. I am not a bad person. I am a good person
19 who has made bad decisions in his life.

20 I am a son, a brother, and I am a father myself.
21 I am not lost. I am someone who can and will be a pillar of
22 the community.

23 My life is in your hands, Your Honor. Today I want
24 to ask -- no, not ask -- beg in the name of Jesus to have
25 mercy on me and for my family.

1 Thank you, Your Honor.

2 THE COURT: Thank you, Mr. Valdez.

3 I'm going to take a five-minute break, and there is
4 something I want to do on my sentence that I want to make
5 sure I do it correctly, and then I will be back in five
6 minutes.

7 (A recess is taken at 11:54 a.m.)

8 -- -- --

9 (In open court at 12:07 p.m.):

10 THE COURT: Let me take a moment, Mr. Valdez, to
11 collect my thoughts in view of what I've heard today and
12 what I've read in the PSR and particularly what you had to
13 say.

14 What you said and what your family members have
15 said and even the parable that you cited from Matthew is
16 all about relationships.

17 And I understand why you would like for me to
18 focus on the relationships. Defendants often do that. And
19 I think it's helpful for me to remember, which I do, that
20 everybody who sits where you are sitting and is sentenced by
21 me loses something.

22 And there are few people in the United States who
23 have the ability to deprive people of their freedom. And
24 when you are talking about you and your family and what you
25 are being deprived of, it's often made most poignant as far

1 as me focusing on a sentence when you talk about your
2 relationships, especially relationships with your immediate
3 family and most importantly with your children.

4 But then I thought isn't there really more to
5 this case than that, and what really did you do to your
6 relationships with the people that I have mentioned, and
7 have you done something to other relationships and
8 responsibilities that you have. And I thought what is the
9 way to capture that.

10 And I can't remember ever using this word in the
11 past, but you have betrayed almost everything that is
12 important to anybody in this country.

13 You know, we are commanded to honor our fathers and
14 our mothers. You gave an apology to them, but you betrayed
15 everything that they tried to do for you.

16 You betrayed the sacrifices that they made when
17 they didn't have much to sacrifice. You betrayed the trust
18 that they had in you as they tried to raise you well. You
19 betrayed the two specific things that they told you not to
20 do, which is not to get influenced by bad people and not to
21 get involved in drugs.

22 Not only did you betray that in a small personal
23 way, you betrayed that in the largest way that I have seen
24 any defendant that ever appeared in this courtroom or any
25 defendant that I ever investigated when I was in the

1 United States Attorney's Office. You have distinguished
2 yourself as few among many.

3 You betrayed your sisters and your brother.
4 I thought about that and I said, you know, it's one thing if
5 siblings don't always get along well, but what I hear is that
6 you were a close-knit family that was cultivated by loving
7 parents, and you hid from them who you really were.

8 People who love each other don't hide who they are,
9 and you did that. I'm not sure that you did it well, because
10 I believe that if I had a really candid conversation with
11 every member of your family, that they all knew something was
12 up.

13 How do you account for all the things that you
14 acquired? What kind of job did you have that would have paid
15 you millions of dollars that would have allowed you to buy
16 nice things and nice cars, provide for your family?

17 And I know how my sister does it, because she's
18 a doctor and she works incredibly hard and she makes a
19 fair wage for what she does. I know my other sister doesn't
20 do that because she doesn't have nearly the resources.
21 Family members know family members, and they know what's
22 up.

23 You betrayed especially the two people who spoke
24 here, who you knew were engaged in the very professions that
25 were supposed to stop people like you or to deal with you or

1 somebody who is apprehended and prosecuted for violating the
2 laws.

3 And how you could have ever been in their presence,
4 especially your sister, knowing what you were doing and said,
5 Let me, when I leave here, I have got to go make another
6 deal. You have lived a lie, and you deceived her, and that's
7 about as great a betrayal as I can imagine.

8 You betrayed your very children. What kind of
9 example have you set for them? When things get tough, when
10 the money is easy, what do you do? You just lie and cheat
11 and commit more crimes in a broader way.

12 You know, some day, I don't know when it will
13 occur, your younger children are going to say, Dad, why did
14 you do that to us? Why did you betray us? And why did you
15 do it over and over again? And what really was going through
16 your mind when you walked through the door of the place where
17 I live knowing what you had just done?

18 You betrayed your country. We try hard, we send
19 people into harm's way to go and investigate people like you
20 in undercover capacities, put themselves at great risk.

21 We have seen examples of that just in the last few
22 years where law enforcement officers, trying to protect the
23 country, trying to protect its people, have lost their lives
24 in the line of duty. We see that every day in American
25 communities.

1 One of the things they are doing is they are
2 investigating drug transactions, transactions which would
3 never have occurred if you had never done what you did.

4 And you have betrayed the communities that those
5 law enforcement people serve. I have given you my one
6 example, but there are many more of what the scourge of drugs
7 does in not only ruining lives, but sometimes taking the
8 lives of people.

9 Have you ever sat in a room with a mother and a
10 father trying to deal with a son or a daughter who is
11 addicted and see the heartache and loneliness that occurs
12 between a parent and a child, sometimes between parents
13 themselves, because somebody can go down to a street corner
14 or go into a house and buy the very things that you so
15 willingly, freely brought into the country, or caused or
16 helped to bring into the country because it made you rich?

17 The scope of your conduct is really hard for me to
18 fully understand because it is so extensive. There is no
19 doubt that it's egregious. We know just from what we have
20 heard here today that it was dangerous. And I bet there is
21 not a single person in this courtroom that doesn't believe
22 that what you have done is despicable.

23 And nobody is welcome in our communities who
24 chooses to engage in the arrogant, self-interested, greedy
25 conduct in which you engaged, which alone is one of the

1 reasons why you will be removed from it, because you haven't
2 earned the right to live in an American community.

3 You know, I know something about your organization
4 that you don't know, because you weren't here when Mr. Flores
5 was tried, but I was. And I saw the manipulation, the
6 deceit, the storage of stash houses, saw the volumes in those
7 stash houses.

8 I saw the implements by which you took what you
9 made from the sales of illegal substances, how it was
10 wrapped, how it was sent, and how it was transported in traps
11 and drugs brought in in traps under cover loads.

12 I saw all of that, and now I get to see who was
13 responsible for allowing that to happen, and that's you.

14 Then you sat here in front of me, you said you
15 wanted to go to the podium, and having heard lots of
16 defendants speak to me, some in serious cases, some in less
17 serious cases, but all people that were trying to manage and
18 handle and internalize their crimes, and as I took notes
19 about what you said, almost every time you tried to explain
20 away why you shouldn't be held seriously accountable, because
21 you didn't really do what they said -- even though the PSR
22 was unobjected to -- that you really didn't do anything that
23 the government said, but there is no evidence that you
24 didn't.

25 You said that, you know, you are sorry for what you

1 did to your family, but with a kind of offhand glance over
2 your shoulder, as if you could throw that apology from the
3 rear of your head to your family.

4 And I think the words that you chose when we talked
5 about even people getting physically harmed or murdered,
6 I think those words were chosen carefully, because I think
7 today you are still trying your level best, as you were
8 doing your level best to sell, to arrange for the
9 transportation of illegal substances into this country and
10 its communities and to its adults and children who live here,
11 that you are very careful about what you say, and you are
12 very good at it.

13 I can tell -- even somebody who has been in
14 pretrial detention for a long time, I can tell when somebody
15 has such deep remorse that they can hardly stand and speak to
16 me. There were a couple of times when you got choked up a
17 little, but most of what you said was -- you were reading
18 from what you had written, which is a good thing, but even
19 when you write, it's impossible for somebody who is really
20 remorseful not to use words of remorse.

21 You had more words that were an excuse than they
22 were of truly being sorry, not just to your family --
23 I believe you are sorry for them -- but in all of the time
24 that we spent -- and it was fairly long -- I think there was
25 only one mention of how sorry you were for the communities.

1 And we have these 3553 (a) factors which have two
2 basic components, and since you know the Bible well, there's
3 a -- and, in fact, I was reminded of this by a chaplain just
4 last week who said there is a verse in Micah that says that
5 all of us are responsible to do justice, love mercy, and walk
6 humbly with our God.

7 I think all of us are supposed to do the last
8 thing. It's poignant for me that I have to do the first two,
9 and I do that in a sentencing.

10 The mercy part is the first part of the 3553 (a)
11 factors: Who are you, why did you do what you did, what
12 external factors were there that caused you to do what you
13 did, how remorseful are you, what's your character, what are
14 the good things that you've done.

15 The only good thing you told us that you did other
16 than how much you care for your family is that you used drug
17 proceeds to make donations.

18 We don't encourage people to sell drugs to do
19 charitable works, and I will bet if you told those people the
20 origin of those funds, they would have said: Not me, and not
21 now, because I abhor the generation of profits from the kind
22 of activity that rips apart our families and our
23 communities.

24 So I think I know a fair amount about you.
25 This is the third time that we have been together,

1 and there is a little bit that builds upon the character and
2 persona of a person each time I get to see them, and now
3 I have got some outside information from those that spoke on
4 your behalf.

5 So I fall upon the next part of the 3553 (a)
6 factors which is to do justice. Justice is the
7 responsibility that I accepted when I became a member of our
8 court because I knew that there were days and cases like this
9 where my responsibility was, besides listening to what a
10 defendant did and why they did it, but also to protect the
11 interest of the people of the United States.

12 And so the last characteristics are: Is the
13 punishment, does it reflect the seriousness of the offense,
14 is it fair, is it just, does it deter the person who is being
15 sentenced, does it deter others, does it provide services
16 that would be available to somebody if they are incarcerated
17 at the prison to which they are assigned.

18 Some of those services you've said yourself you
19 need, which is protection from other people, and that's
20 something that you will get. Because the responsibility of
21 the Bureau of Prisons, besides holding you in custody, is to
22 ensure your safety, and you will benefit from that.

23 What you never considered is that there is no place
24 for us to send your family to protect them.

25 This is a really -- and I will tell you one more

1 thing. There is a communication that you said during the
2 course of trying to provide information and then talk to
3 government officials about the possibility that you could
4 turn yourself in as you were trying to negotiate and what you
5 might get in return, but there were two names on one of the
6 documents, the person in Louisiana and the person in the
7 Southern District of Texas with whom you communicated,
8 Mike Shelby and Jim Litton.

9 Mike Shelby and Jim Litton were two of the people
10 when the United States Department of Justice decided that the
11 real problem in our country and the real way that we could
12 impact them is to focus on transnational groups, and those
13 were the people that you were trying to communicate with as
14 they tried to protect the country against people just like
15 you.

16 And what you don't know is that it took law
17 enforcement a while to realize that you have to have
18 coordination from all law enforcement if you are going to
19 attack a problem as big as this shipment over the southwest
20 border of drugs to infect our communities, and today you are
21 here because of a change in strategy that targeted
22 organizations like yours for the purpose of stopping what
23 you do, stopping what others do, and to hold you accountable
24 for what you have done. And this is the day that that
25 happens.

1 I'm sorry that your selfishness inflicts this pain
2 and anguish on your family, but I suspect there are many
3 times during the course of your conduct that you knew that
4 this wasn't just about what might happen to you, it's about
5 what might happen to your family members, and in fact you
6 finally decided that it was bad enough that you had to start
7 finding a way to protect them because you knew that any day
8 somebody could have walked into their home and hurt them, not
9 because they didn't like them, but because they either wanted
10 the money that you were getting or wanted the territory that
11 you got or wanted the power and the prestige or wanted to
12 have this stardom that you had amongst the young people in
13 Laredo.

14 So I have decided upon a sentence. It's a sentence
15 of 650 months, which I am going to reduce to give you credit
16 for the time that you were in Mexican custody, and I've
17 subtracted that from the 650 months so that anybody reading
18 this transcript would know that you have already gotten
19 credit for that.

20 Even though it's not a clear call that you should,
21 but that's one benefit because the government and your
22 lawyers have requested it and I have agreed to it, although
23 if they hadn't I'm not sure I would have given it to you.

24 But with that, if you will stand, I will announce
25 the sentence I intend to impose.

1 Under the Sentencing Reform Act of 1984, it's my
2 judgment, Mr. Valdez, that you be committed to the custody of
3 the Bureau of Prisons to be imprisoned for a term of 589
4 months as to Counts One and Two in Docket No. 09-CR-551, and
5 589 months as to Counts One and Two in Docket No. 16-CR-155,
6 and twenty years on Count Three in Docket No. 09-CR-551, with
7 all of those sentences to run concurrently with one another,
8 for a total period of incarceration of 589 months.

9 I'm further ordering that you pay the
10 United States a special assessment of \$500, and that's
11 due immediately.

12 I'm further ordering that you shall pay the
13 United States a total fine of \$100,000.

14 I'm ordering that you make forfeiture in the amount
15 of \$192,000,000 in the form of a money judgment.

16 Upon your release from incarceration, you will be
17 placed on supervised release for ten years on Counts One and
18 Two in Docket No. 09-CR-551, ten years on Counts One and Two
19 in Docket No. 16-CR-155, and three years on Count Three in
20 Docket No. 09-CR-551, with all of those terms of supervision
21 to run concurrently with one another, for a total term of
22 supervised release of ten years.

23 And within 72 hours of your release from custody,
24 you will report in person to the probation office in the
25 district into which you are released.

1 While you are on supervised release, you shall not
2 commit another federal, state or local crime, and you will
3 comply with the standard conditions that we have adopted as a
4 court, and the following additional conditions.

5 You shall not unlawfully possess a controlled
6 substance.

7 You will submit to one drug urinalysis within
8 fifteen days after being placed on supervision and at least
9 two tests after that as your probation officer directs.

10 Under federal law that requires mandatory DNA
11 testing for federal offenders convicted of federal felony
12 offenses, you will cooperate in the collection of DNA as your
13 probation officer tells you.

14 You cannot own, possess or have under your control
15 any firearm, dangerous weapon or other destructive device.
16 Besides being a violation of supervised release, that's a
17 separate crime under the laws of the United States for which
18 you could be prosecuted and punished.

19 And you will submit to a search of your person any
20 property that you have at the request of your probation
21 officer.

22 Having carefully considered all of the information
23 presented to me during the course of these proceedings and
24 evaluated the factors under 3553 (a), I find that this is the
25 fair and reasonable sentence in this case, and it's the one

1 I intend to impose.

2 Is there any objection from the government?

3 MS. HATHAWAY: No, Your Honor.

4 THE COURT: Any objection from the defendant?

5 MR. PARKER: No objection as to the form,
6 Your Honor.

7 THE COURT: And I hereby impose the sentence I have
8 just announced.

9 And you may be seated.

10 Let me read your appellate rights.

11 Having pled guilty to the crimes in these two
12 indictments, you can appeal if you believe your guilty plea
13 was either unlawful or involuntary or there was some --
14 I need for him to listen to his appellate rights.

15 Are you ready to listen?

16 DEFENDANT VALDEZ-VILLAREAL: Yes, sir. I'm sorry,
17 Your Honor.

18 THE COURT: Your appellate rights are you can
19 appeal if you believe your guilty plea was either unlawful or
20 involuntary or there was some fundamental defect in the
21 proceedings that was not waived by your plea, and you can
22 of course appeal your sentence.

23 If you decide to appeal, that begins with the
24 filing of a notice of appeal that your lawyers will help you
25 file. It's a short statement of your intention to appeal.

1 If for some reason they are not available to you,
2 the Clerk of Court will assist you in filing your notice of
3 appeal.

4 While it's easy to prepare, it has to be filed of
5 record within fourteen days after the entry of the judgment
6 in this case, and that will happen in the next day or two.
7 It's once that becomes part of the record of your case that
8 the fourteen days begins to run.

9 And you you will stay in the custody of the
10 Marshals's Service until you receive your prison
11 assignment.

12 To the family members and those that know
13 Mr. Valdez, I'm sorry that this day has come.

14 I do want all of you to know that, based upon what
15 I have heard and read, that you tried your level best to
16 create an environment in which the Valdez children lived
17 lawful, fulfilled lives, in which they could be happy in
18 their relationships with their family and with their
19 communities.

20 The fact that there are two people that are in law
21 enforcement that are a brother and sister is a remarkable
22 testament to how hard your family has operated and how well
23 you have protected yourself from a member of your family who
24 has done despicable things.

25 That's your hope. You have each other to lean on,

1 you have each other to support you, you have jobs in which
2 you continue to make an influence within your communities,
3 and know that you are in no way responsible, considering what
4 you tried to do, for the decisions made with a member of your
5 family.

6 For those that are otherwise here to support
7 Mr. Valdez, I have tried to explain throughout this hearing
8 what my perspective is, having served in law enforcement
9 myself and having been on the bench for fourteen years, that
10 I have never seen a case like this, and it shows me that
11 there is plenty of work that needs to be done to stop this.

12 It's ruining our country, it's ruining people, and
13 those people that want to do the ruinous behavior that causes
14 that, they should know today that what happens to you is
15 indeed ruinous, because we just won't tolerate it. So thank
16 you for your attention.

17 Is there anything else I need to cover?

18 MS. HATHAWAY: No, Your Honor. Thank you.

19 THE COURT: Is there anything else, Mr. Parker?

20 MR. PARKER: No, Your Honor.

21 THE COURT: We will be in recess.

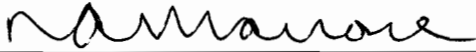
22 (Proceedings adjourn at 12:33 p.m.)
23
24
25

C E R T I F I C A T E

UNITED STATES OF AMERICA :
:
NORTHERN DISTRICT OF GEORGIA :

I, Nicholas A. Marrone, RMR, CRR, Official Court Reporter of the United States District Court for the Northern District of Georgia, do hereby certify that the foregoing 111 pages constitute a true transcript of proceedings had before the said Court, held in the city of Atlanta, Georgia, in the matter therein stated.

In testimony whereof, I hereunto set my hand on this, the 19th day of June, 2018.



NICHOLAS A. MARRONE, RMR, CRR
Registered Merit Reporter
Certified Realtime Reporter
Official Court Reporter
Northern District of Georgia